

Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan

WC Docket No. 03-16

JOINT SUPPLEMENTAL DECLARATION

OF

SARAH DeYOUNG

AND WALTER W. WILLARD

ON BEHALF OF AT&T CORP.

Table of Contents

	<u>Page</u>
I. SBC'S ASSERTION THAT IT HAS COMPLIED WITH ITS CHANGE MANAGEMENT PROCESS IS WITHOUT MERIT.....	4
A. SBC's Assertion That It Has Complied With the CMP Finds No Support In the CMP Document Itself or In the BearingPoint Test.....	9
B. SBC's Discussion of the Issue of Its Compliance With the CMP Only Confirms That It Has Made Numerous Changes In Its OSS Without Providing Advance Notice To CLECs, and That Its OSS Are Unstable and Unreliable.....	13
C. The "Change Management Communications Improvement Plan" In SBC's "Modified Compliance Plan" Should Be Given No Weight.....	38
II. SBC'S PERFORMANCE DEMONSTRATES ITS CONTINUED INABILITY TO PROVIDE AT&T WITH NONDISCRIMINATORY ACCESS TO ITS OSS.....	38
A. Pre-Ordering Outages	39
B. Line Loss Notifications.....	42
1. SBC's Attempts To Show That Its LLN Performance Is "Excellent" Is Contrary To the Facts.	42
2. New Problems With SBC's LLN Systems Continue To Occur, Confirming the Inadequacy of SBC's LLN Performance.	54
C. Provisioning Accuracy	60
D. Other Continuing Problems in SBC's OSS	61
III. SBC'S "SAME-VERSION" REQUIREMENT, AND THE LIMITATIONS THAT SBC PLACES ON THE USE OF ITS TEST ENVIRONMENT, REMAIN A SUBSTANTIAL IMPEDIMENT TO EFFECTIVE COMPETITION.	65
A. Versioning.....	65
B. Test Environment.....	69
CONCLUSION.....	74

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
)

Application by SBC Communications)
Inc., Michigan Bell Telephone Company,)
and Southwestern Bell Communications)
Services, Inc. for Provision of In-Region,)
InterLATA Services in Michigan)

WC Docket No. 03-16

**JOINT SUPPLEMENTAL DECLARATION OF
SARAH DeYOUNG AND WALTER W. WILLARD**

1. My name is Sarah DeYoung. I am Division Manager – Local Services for AT&T’s SBC Local Services and Access Management (“LSAM”) Organization. I am the same Sarah DeYoung who submitted both a Joint Declaration and a Joint Reply Declaration with Walter W. Willard in this proceeding regarding SBC’s operations support systems (“OSS”).¹ My background and credentials are set forth in the Opening Declaration that I filed with Mr. Willard.

2. My name is Walter W. Willard. I am the District Manager for OSS Local Services for AT&T’s SBC LSAM Organization. I am the same Walter W. Willard who submitted a Joint Declaration and Joint Reply Declaration in this proceeding with Ms. DeYoung. My background and credentials are set forth in the Opening Declaration that I filed with Ms. DeYoung.

¹ See Joint Declaration of Sarah DeYoung and Walter W. Willard on Behalf of AT&T Corp., filed February 6, 2003 (“DeYoung/Willard Opening Decl.”); Joint Reply Declaration of Sarah DeYoung and Walter W. Willard on Behalf of AT&T Corp., filed March 4, 2003 (“DeYoung/Willard Reply Decl.”).

3. The purpose of the Joint Supplemental Declaration is to respond to certain issues and statements regarding OSS that SBC made in its Reply Comments filed March 4, 2003. We will primarily respond to the Joint Reply Affidavit of Mark J. Cottrell and Beth Lawson regarding OSS ("Cottrell/Lawson Reply Aff.") that SBC submitted as part of its Reply Comments.² For the reasons stated below, the various assertions and rationalizations in SBC's Reply Comments do not alter the basic fact that SBC still fails to provide nondiscriminatory access to its OSS.

4. Although it continues to maintain that it is currently meeting its OSS obligations under the checklist, SBC acknowledges again and again in its Reply Comments that it repeatedly has made mistakes, made changes that had "unintended" adverse impacts on CLECs, and disseminated erroneous information to CLECs regarding its OSS. Yet, while effectively admitting that numerous OSS problems have occurred, SBC seeks to dismiss them as "inadvertent" errors, or situations where the adverse consequences to CLECs were not "anticipated," "intended," or "expected."³ Even if they are accepted at face value, however, SBC's explanations only provide further confirmation that its OSS are unstable and inadequate.

² We will also address certain portions of the *ex parte* letters that SBC filed with the Commission on March 14 and March 17, 2003. See *ex parte* letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 17, 2003 ("March 17 *ex parte*"); *ex parte* letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 14, 2003 ("March 14 *ex parte*"). In addition, we will address certain portions of the "Modified Compliance and Improvement Plan Proposals" ("Modified Compliance Plan") that SBC filed with the Michigan PSC on March 13, 2003, following collaborative sessions on the Draft Compliance Plan that it originally filed with the MPSC on February 13, 2003. SBC has already filed a copy of its Modified Compliance Plan with this Commission in this proceeding. See *ex parte* letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 13, 2003.

³ Reply Comments of SBC In Support of Its Application To Provide In-Region, InterLATA Services in Michigan, filed March 4, 2003 ("SBC Reply"), at 18-19; Cottrell/Lawson Reply Decl. ¶¶ 10, 27, 31-32, 34-36, 99, 101, 108, 111.

5. The evidence in this proceeding establishes that SBC falls well short of meeting its OSS obligations. As discussed in Part I, despite the denials and excuses offered by SBC, the record shows that SBC has persistently disregarded, and violated, the Change Management Process. Although it denies that it violated the CMP except in one instance, SBC does not cite a single provision of the CMP that supports its position. Even if one were to (erroneously) accept SBC's argument that the problems identified by AT&T do not constitute CMP violations, it is clear that SBC's repeated implementation of various fixes to its OSS without advance notice thereof simply confirms the instability and unreliability of SBC's OSS.

6. The "Modified Compliance Plan" for CMP that SBC filed last week with the Michigan PSC should be given no weight in this proceeding, because it consists of a set of promises, most of which have not been fully implemented. Even after SBC fully implements its plan, SBC will need to demonstrate a sustained period of compliance with its Compliance Plan over time before the Commission can properly determine whether it meets its CMP obligations under the competitive checklist.

7. As discussed in Part II, the existing record and more recent events belie SBC's claim in its Reply Comments that it is providing nondiscriminatory access to its OSS. For SBC recently admitted to AT&T that it had withheld nearly 10,000 billing completion notices as a result of its "reconciliation" process. SBC's delay in transmitting BCNs impedes AT&T's ability to promptly satisfy the requests of customers for changes to their service. Furthermore, this month SBC acknowledged yet *another* problem in its systems for providing line loss notifiers, which resulted in the issuance of hundreds of erroneous LLNs on orders for partial migrations – despite SBC's previous assurances that the problem had been corrected.

8. Finally, as discussed in Part III, despite the attacks on AT&T that SBC makes in its Reply Comments, the record clearly shows that SBC does not provide CLECs with reasonable and nondiscriminatory access to multiple versions of its EDI interface, or to its test environment. Although SBC accuses AT&T of attempting to “impose the costs of solving its own business problems onto SBC” in criticizing SBC’s “same-version” policy (SBC Reply at 36), AT&T is only seeking the same type of versioning that has been implemented by other RBOCs. SBC’s refusal to change its “same-version” policy severely inhibits AT&T’s ability to enter into line splitting arrangements and other types of competition that require collaboration between CLECs and a third party.

9. SBC’s defense of its current limitations on retesting in its test environment also does not withstand scrutiny. The simplistic suggestion of SBC that AT&T develop its own internal test environment ignores the need of CLECs to test the interaction of all of their systems with those of SBC. Without that ability – which can only be realized in the test environment that SBC provides to CLECs – CLECs have no assurance that they will be able to submit orders successfully to SBC.

I. SBC’s ASSERTION THAT IT HAS COMPLIED WITH ITS CHANGE MANAGEMENT PROCESS IS WITHOUT MERIT.

10. As we explained in our previous Declarations, many of the problems that AT&T has experienced with SBC’s OSS are attributable to SBC’s failure to follow its change management process. SBC routinely makes changes in its OSS, and its business rules, without notifying AT&T in advance. When this happens, AT&T (unaware of the change) continues to submit orders using the same methods and procedures that it had previously, and successfully, used to submit orders to SBC. As a result, AT&T experiences order rejections and other

disruptions in its operations, thereby impairing AT&T's ability to compete effectively in the local exchange market in Michigan.⁴ After reviewing the evidence of SBC's performance, the Michigan PSC found that "SBC's OSS changes *were not announced prior to their implementation and did negatively affect CLECs.*" *Michigan PSC Companion Order* at 10 (emphasis added).

11. SBC's failure to provide advance notice of changes has inflicted substantial injury on AT&T and its customers. These failures were the root cause of approximately 50,000 erroneous order rejections that AT&T has experienced since last October.⁵ In each case, the rejection of the order delayed the provisioning of the order past the original due date, thus denying the customer its service on the day that the customer requested, because AT&T was required either to supplement the original order or depend upon SBC to "un-reject" the rejected orders. AT&T estimates that, on average, an order rejection delays the provisioning of an order by 8 or 9 days beyond the original due date. Often, the customer decides to cancel the order altogether rather than wait until the situation has been resolved, because of the delay in provisioning caused by the erroneous rejection of the order. Approximately [**] percent of

⁴ See DeYoung/Willard Opening Decl. ¶¶ 159-176; DeYoung/Willard Reply Decl. ¶¶ 6-53.

⁵ DeYoung/Willard Opening Decl. ¶¶ 28, 51, 164. These erroneous rejections, include, for example: (1) 15,000 orders rejected due to erroneous "L100/101" (PIC/LPIC Already Working) error messages; (2) 10,000 orders rejected because of SBC's "inadvertent" (and unannounced) changes by SBC to EDI formatting; (3) 15,000 orders erroneously rejected with error code "G408" (Invalid Trailing Data for Pay Per Use Blocking and Custom Ring Features); (4) 2,800 orders rejected due to SBC's incorrect application of LSOG 5 edits to LSOG 4 orders; (5) 800 orders rejected due to the sudden inability of SBC's OSS to read hunting information; and (6) 3,000 orders rejected for failure to complete the Directory Activities ("DACT") field on the LSR, due to another unannounced change that SBC made in its OSS. See *id.* ¶¶ 51, 104; DeYoung/Willard Reply Decl. ¶ 30. For purposes of this discussion, an "order" means a single version of a purchase order. Thus, where PONs require multiple versions, they are considered as multiple orders. DeYoung/Willard Opening Decl. ¶ 18 n.6.

customers whose orders were originally rejected cancel their orders rather than await provisioning.⁶

12. In addition, the erroneous rejections have required AT&T to expend substantial time and costs to investigate the causes of the erroneous rejections and (if necessary) to modify its systems and submit supplemental orders. DeYoung/Willard Reply Decl. ¶¶ 51-52. For example, for each supplemental order that it must prepare and submit, AT&T incurs labor costs of over [*****] just to manually correct and re-work the errors. A single OSS error can therefore impose costs of hundreds of thousands of dollars on AT&T. This estimate is limited to labor costs, and does not include all of the costs incurred by AT&T such as the additional charges that AT&T must pay to SBC to submit the supplemental orders, and the substantial labor costs that AT&T must incur to investigate the problem before it can submit the supplemental orders.

13. In addition to imposing substantial additional costs on AT&T, the erroneous rejection of AT&T's orders by SBC's OSS cause AT&T to suffer a major loss of revenues. Even if a customer still decides to switch to AT&T (notwithstanding the provisioning delays caused by the erroneous rejection of its order), AT&T will not receive revenue for the period during which provisioning was delayed. AT&T estimates that, on average, it receives approximately [*****] per day from each of its customers for local exchange service. Thus, if provisioning is delayed by 8 or 9 days, (as has been AT&T's general experience when an order is rejected), AT&T would lose approximately [*****] for each erroneously-rejected order.

⁶ This estimate encompasses *all* order rejections, regardless of whether the rejections were due to an error by the ILEC or to some error by AT&T. Thus, in the case of orders that were rejected in error by the ILEC, the provisioning delay is likely to be even longer than the average, because AT&T would be required to investigate the problem and consult with the ILEC before it could be reasonably certain that it would be able to submit a supplemental order without rejection.

14. If the customer decides to cancel the order because of the provisioning delays – which, as previously indicated, occurs approximately [**] percent of the time – AT&T suffers an even greater loss of revenue. On average, AT&T receives approximately [***** **] from a customer for local exchange service. Thus, AT&T is likely to suffer hundreds of dollars of lost revenue in the case of each customer who cancels service due to provisioning delays caused by erroneous rejections.

15. For example, if the customer would have taken AT&T's service for 6 months but for the erroneous rejections, AT&T would lose approximately [*****] for that customer alone. Moreover, this estimate does not include the costs associated with the injury to AT&T's reputation in the marketplace that occurs when customers perceive that their provisioning problems were caused by AT&T and communicate that to other potential customers. In addition, it has been AT&T's experience that customers that encounter provisioning problems are more likely to leave AT&T once their service is provisioned than customers that enjoy a smooth transition. Thus, increased churn is directly attributable to erroneous rejections, which may affect AT&T's long-distance revenue for those customers as well.

16. SBC's erroneous rejections of AT&T's orders have not been confined to a single LSOG version. AT&T has experienced erroneous rejections while it was using LSOG 4.02 *and* after AT&T Consumer Services migrated to LSOG 5.02 in December 2002. Thus, the disruptions in AT&T's operations caused by erroneous rejections cannot fairly be attributed to AT&T's decision to migrate to LSOG 5.02. They reflect a systemic problem in SBC's OSS, including SBC's failure to provide advance notice of changes. Indeed, it would be

illogical to blame a CLEC for SBC's OSS problems because the CLEC migrated to LSOG 5 – a version which SBC was *required* to implement as part of its obligations under the Commission's *SBC-Ameritech Merger Order*. Moreover, as described below, SBC *encouraged* AT&T to migrate to LSOG 5.

17. Nor is SBC's erroneous rejections of orders a problem experienced only by AT&T. Rejects in error are being experienced by other CLECs, such as CoreComm, Choice One, and Talk America. In June 2002, for example, ChoiceOne – supported by multiple other CLECs – opened a change request to include an "un-reject" capability in LSOG 5, because of the "potentially enormous" impact on the CLECs' "bottom line" if they were required to submit supplemental orders on erroneous rejects instead. At the time Choice One submitted its change request, at least four CLECs "struggled daily with the fallout caused by . . . invalid system rejects."⁷

18. Although Choice One's change request has still not been implemented (nine months after its submission), numerous CLECs continue to experience substantial volumes of rejects in error. That AT&T is not the only CLEC affected by this problem is reflected in Attachment 2 hereto, which is the CMP Action Item Log developed after the March 2003 CMP meeting. As shown in Attachment 2, the issue of invalid rejects has been raised by various CLECs in numerous CMP meetings. Most recently, on February 20, 2003, the issue was opened by CoreComm. Other CLECs who participated in the discussion included not only AT&T, but ChoiceOne, Talk America, DCS, and WorldCom. *Id.* at 3-5.

⁷ See Change Request AM 02-011, submitted June 11, 2002 (attached hereto as Attachment 1).

19. In response to our testimony, SBC denies that it violated the CMP – except on one “isolated” occasion. At the same time, SBC cites the promises made in its recently-filed Modified Compliance Plan as proof that it will “improve communication between SBC Midwest and CLECs and regarding CLEC-impacted changes.” SBC Reply at 18-19. Neither of these assertions is correct.

A. SBC’s Assertion That It Has Complied With the CMP Finds No Support In the CMP Document Itself or In the BearingPoint Test.

20. In its Reply Comments, SBC acknowledges “certain missteps on its part,” but asserts that *only one* of the numerous incidents of disruptions in AT&T’s operations that we described in our Opening Declaration was a violation of the CMP – “and even that single incident was isolated and minor in nature.” SBC Reply at 18; Cottrell/Lawson ¶¶ 20, 22. SBC denies that the remaining incidents were violations of the CMP, because they were simply situations where “programming on SBC Midwest’s side of the interface resulted in an unintended impact on AT&T’s orders.” Cottrell/Lawson Decl. ¶ 20.⁸

⁸ SBC has suggested that the Commission should find that it has demonstrated a pattern of compliance with the CMP because the Commission “reviewed [the 13-State CMP] – and found that SBC complied with that process – in connection with its approval of the Arkansas/Missouri and California 271 applications.” March 14 *ex parte*, Att. D, ¶ 6. SBC’s argument is misplaced. In this proceeding, AT&T is raising the issue of SBC’s failure to follow the 13-State CMP – not the adequacy of the CMP itself. Moreover, decisions such as the *Texas 271 Order* and the *California 271 Order* are inapplicable, because the Ameritech legacy systems are different from – and therefore cause far more change management problems than – the legacy systems in the SWBT and Pacific regions. *See* DeYoung/Willard Reply Decl. ¶ 7. Finally, although the Commission found in the *Texas 271 Order* and *Kansas/Oklahoma 271 Order* that SWBT had complied with the CMP, the Commission’s findings were based on a record compiled nearly three years ago (in the *Texas 271* proceeding) and more than two years ago (in the *Kansas/Oklahoma* proceeding). The Commission has held that “because our review of a section 271 application must be based on a snapshot of a BOC’s recent performance at the time an application is filed, *we cannot simply rely* on our findings relating to an applicant’s performance in an anchor state at the time we issued the determination for that state,” because the “BOC’s

21. SBC's argument is flatly contrary to the facts, and without support in the CMP itself. SBC attempts to equate its performance under the CMP with Qwest's performance under its CMP, which the Commission found to be adequate in the *Qwest Nine-State Order*. Unlike Qwest's performance, however, SBC's CMP performance has not involved merely a single instance (or even "isolated instances") of noncompliance with the CMP. *Compare Qwest Nine-State Order* ¶ 148. SBC's performance has been a continuing pattern of violations of the CMP. Again and again, SBC has made systems changes in its OSS without providing advance notice of those changes to CLECs. Although SBC asserts that it has violated the CMP only once, it does not deny that in each of the incidents that it chooses to discuss, it failed to provide notice to the CLECs in advance of the change or problem that it describes. Furthermore, unlike Qwest's single violation of the CMP, SBC's disregard of the CMP has resulted in substantial competitive harm to CLECs.

22. SBC's claim that it has violated the CMP on only one occasion is based on its crabbed reading of its obligations under the CMP, including its obligation to follow the Exception Process of the CMP when it wishes to deviate from the normal CMP requirements. For example, SBC states:

Nothing in the CMP precludes SBC Midwest from making changes to its interfaces that do not represent changes to the EDI specifications and business rules to which the CLECs have programmed their interfaces. The exceptions process specifically applies to release requirements, regulatory mandates, and emergency situations and applies when SBC seeks to make a change to those requirements. The exceptions process does not apply to programming undertaken by SBC Midwest to make its systems run more efficiently, or to address defects on its side of the

performance in that state could change." *Kansas/Oklahoma 271 Order* ¶ 37 (emphasis added).

interface, so long as there is no impact to the release requirements and business rules.⁹

23. Significantly, however, SBC does not cite a *single provision of the CMP* that supports its position – nor can it. The provisions of the CMP regarding the Exception Process do not limit that process to “release requirements,” “regulatory mandates,” or “emergency situations.” They apply when “SBC wishes to make *a specified change*, introduction of a new interface or retirement of an interface.”¹⁰ The CMP does not restrict the “specified change” to the categories described by SBC. Instead, the provisions of the CMP regarding the Exception Process state that SBC may implement a “specified change” under the Exception Process “only if there are no outstanding issues, or CLEC objections at the end of the end of the response cycle.” *Id.* § 6.3.2.3.

24. In addition, nothing in the CMP supports SBC’s position that its scope is limited to “changes to the EDI specifications and business rules.” As we have previously shown, the CMP states that it applies to “changes to OSS interfaces that affect CLECs’ production or test environment,” including changes to existing functionality or changes that require CLECs to meet new technical requirements. DeYoung/Willard Opening Decl. ¶ 160 (quoting § 3.0 of CMP Document). Thus, contrary to SBC’s interpretation, the CMP clearly covers situations when

⁹ Cottrell/Lawson Reply Aff. ¶ 20.

¹⁰ SBC 13-State Uniform Change Management Process (Cottrell Opening Aff., Att. N), § 6.3.1 (“CMP Document”) (emphasis added). Although this provision calls for SBC to issue a “Release (or Retirement) Accessible Letter,” the provision’s use of the phrase “a specified change” makes clear that the CMP does not restrict such changes to releases. Furthermore, the Exception Process provisions include a specific subsection addressing “regulatory mandated changes” simply to make clear that such changes are *not* subject to the otherwise-applicable unanimity requirement of the process. CMP Document § 6.3.2.4. SBC is even incorrect in asserting that “emergency situations” are included in the Exception Process. The CMP establishes separate procedures for such situations, and states that the Exception Process was established to go

SBC is “tightening an edit or business rule” or “begins enforcing an existing documented business rule with an electronic or manual edit.” The CMP makes no distinctions between these situations and “changes to EDI specifications and business rules,” because *any* change that SBC makes in its interfaces without proper advance notice can adversely affect CLECs, regardless of how the change is classified.¹¹

25. The Exception Process provisions of the CMP are also flatly contrary to SBC’s suggestion that it need not follow the Exception Process if SBC believes that there will be no “impact to its release requirements and business rules.” The CMP states that unanimous agreement is required for “any agreement to deviate from the normal CMP” because “it will be difficult *for SBC or other CLECs to accurately assess the impact of SBC’s or a CLEC’s proposed change on SBC’s or on any given CLEC’s current or future development.*” CMP Document § 6.3.1 (emphasis added). Thus, the CMP requires that, in lieu of unilaterally determining that a proposed change will not affect CLECs, SBC must use the Exception Process, where the CLECs will have an opportunity to discuss the expected impact of the change with SBC.

26. Rather than cite any provision of the CMP, SBC instead cites the results of the BearingPoint test as confirmation that it has complied with the requirements of the CMP.¹² BearingPoint’s test, however, reviewed only a single OSS release (LSOG 4). It was a “status” evaluation focusing on whether SBC’s formal release documentation technically met the timelines established by the CMP for such documentation, and was not a dynamic, functional

“[a]bove and beyond the need to handle emergency situations.” *Id.* §§ 6.2-6.3.

¹¹ See DeYoung/Willard Reply Decl. ¶¶ 14-20; Cottrell/Lawson Reply Aff. ¶ 39.

¹² SBC Reply at 17; Cottrell/Lawson Reply Aff. ¶ 21; March 14 *ex parte*, Att. D, ¶¶ 2, 9-10.

evaluation of SBC's compliance with CMP requirements.¹³ Thus, BearingPoint's test did not examine the extent of SBC's actual compliance with the CMP as experienced by real-world CLECs, outside of the context of SBC's issuance of releases.¹⁴ Yet, as we have testified, SBC persistently fails to give CLECs advance notices of systems changes once an interface is put into production.

B. SBC's Discussion of the Issue of Its Compliance With the CMP Only Confirms That It Has Made Numerous Changes In Its OSS Without Providing Advance Notice To CLECs, and That Its OSS Are Unstable and Unreliable.

27. After citing the BearingPoint test, SBC proceeds to discuss the various incidents that we discussed in our Opening Declaration, concluding that SBC violated the CMP in only "one isolated incident." Cottrell/Lawson Reply Aff. ¶¶ 22-55; *see also* SBC Reply at 18-20. In discussing these incidents, SBC often accuses AT&T of mischaracterizing the root cause of the error. In our Opening Declaration, however, we simply described the root causes of the various problems *as those root causes were described to AT&T by SBC itself*.

28. SBC's description of the root causes of many of the problems in its Reply Comments is significantly different from that which it described to AT&T, and in some instances marks the first occasion on which SBC made any factual allegations about the problem. For example, aside from a cursory discussion of some of the incidents in its February 13th Draft

¹³ See BearingPoint Final Report at 440-442 (stating that BearingPoint reviewed the release documentation that SBC was required to issue to determine whether SBC complied with the notification intervals under the CMP for that documentation).

¹⁴ BearingPoint's analysis of the CMP did not even include an examination of whether its own "pseudo-CLEC," Hewlett-Packard, experienced problems due to SBC's failure to give advance notice of systems changes.

Compliance Plan,¹⁵ SBC's Reply Comments mark the first time that AT&T has been advised that:

- With respect to orders that were rejected with an "L100/101" error message (PIC/LPIC Already Working), SBC had different rules for LSOG 4.02 and LSOG 5 regarding whether a CLEC may submit PIC/LPIC information on the LSR. *See* Cottrell/Lawson Reply Decl. ¶ 23.
- In attempting to resolve the "L100/101" problem, SBC did not simply make one mistake (changing the trading partner ID associated with AT&T's then-current LSOG 4.02 interface), but committed another mistake (changing the delimiters that SBC sent back to AT&T for version 4.02 to the default values). *Compare id.* ¶¶ 26-27 with DeYoung/Willard Opening Decl. ¶ 65.
- Certain AT&T orders were erroneously rejected with error code H325 (which signifies that the order contained more information than the Customer Service Record) because one of SBC's back-end systems did not operate as expected when it was brought back up after being removed for routine maintenance on the previous day. Cottrell/Lawson Reply Aff. ¶ 32.
- AT&T orders were erroneously rejected with error codes G408 (Invalid Trailing Data for Certain Features) and B103 (Invalid Listing Type: Non-Published, Non-Listed) because SBC was making changes "designed to improve flow-through." *Id.* ¶¶ 30, 33.

29. By themselves, the inconsistencies between SBC's description of the root cause of the problems in its Reply Comments, and the descriptions that it previously provided to AT&T, cast substantial doubt on the credibility of the explanations that it provides in its Reply Comments. But even if SBC's latest descriptions of the incidents – including its explanations as to why all but one of the incidents did not constitute a violation of the CMP – are correct, they simply highlight the instability and inadequacy of its OSS. Over and over, SBC asserts that the problems involved "inadvertent" errors that it made, or impacts to the CLECs that were

¹⁵ We described in our Reply Declaration the inconsistencies between the representations that SBC made in its February 13th Draft Compliance Plan regarding four specific instances of erroneous rejections of AT&T's orders, and the representations that SBC previously provided to AT&T. DeYoung/Willard Reply Decl. ¶ 28 & Att. 2.

“unexpected.”¹⁶ SBC itself “acknowledges certain missteps on its part with regard to the incidents of which AT&T complains.” Cottrell/Lawson Reply Aff. ¶ 22.

30. SBC treats the various incidents that we described in our Opening Declaration as if they present only the issue of whether it complied with the CMP. In our Opening Declaration, however, we described most of these incidents as evidence of SBC’s failure to provide nondiscriminatory access to ordering and provisioning functions.¹⁷ We did so for good reason. Although each of these incidents constitutes a violation of the CMP, they also demonstrate the numerous flaws in the OSS that cause disruptions to the CLECs’ ordering capabilities. The incidents thus do not merely raise change management problems, but the broader question of whether SBC gives parity of access to all OSS functions.

31. Although SBC casts these incidents as issues of CMP compliance, SBC cannot have it both ways. If (as we have described) SBC has repeatedly failed to comply with the CMP, it clearly has not met its OSS obligations. On the other hand, if (as SBC asserts) its conduct in these incidents involved repeated “missteps,” with frequent “inadvertent errors” and “unintended effects,” its OSS are so unreliable that they cannot be found to satisfy the requirements of the checklist.

¹⁶ See Cottrell/Lawson Reply Aff., ¶¶ 20, 27, 31-32, 34-36, 99, 101.

¹⁷ See DeYoung/Willard Opening Decl. ¶¶ 62-91, 101-106 (describing in section on Ordering and Provisioning, the “L100/101 Problem,” SBC’s change to EDI formatting, the “Working Service in Conflict” issue, erroneous “H325” and “B103” rejections, erroneous order rejections on the basis of the “G408” error code, rejections due to “H332” errors, rejections due to the inability of the OSS to read hunting information, and, rejections due to “LS6227” and “G318” error codes); Cottrell/Lawson Reply Decl. ¶¶ 23-37, 42-48 (discussing these incidents as change management issues).

32. In any event, SBC's responses to the incidents that we previously discussed are factually flawed and otherwise without merit. We shall discuss each of the incidents in the order in which SBC discussed them in its Reply Comments, and one additional incident (discussed in our Reply Declaration) that SBC discussed in its March 17 *ex parte* submission. See Cottrell/Lawson Reply Aff. ¶¶ 23-57; March 17 *ex parte*, Att. A at 5.

33. **The L100/101 (PIC/LPIC Already Working) Problem.** In late November 2002, SBC rejected approximately 15,000 of AT&T's change orders, using the message L100/101 (PIC/LPIC Already Working). Because of these rejections, AT&T was required to file supplemental orders for *all 15,000* rejected orders. DeYoung/Willard Opening Decl. ¶¶ 62-64.

34. SBC admits that in this instance (and *only* in this instance) it "should have followed the CMP in making this change." SBC Reply at 18-19. SBC, however, then attempts to minimize the nature of the CMP violation that it *does* admit by attributing to *AT&T* some of the responsibility for the adverse impact resulting from the order rejections. See SBC Reply at 18-19; Cottrell Decl. ¶¶ 23-28. SBC's analysis of the problem simply reflects its disregard of the CMP and the facts.

35. SBC states that the erroneous rejections occurred because it "inadvertently" applied to LSOG 4.02 (under which CLECs may provide PIC/LPIC information on the LSR, regardless of whether the customer is changing its selection) a programming change that it had intended to apply only to LSOG 5 (under which CLECs may include PIC/LPIC information only if the customer is changing its selection). Thus, SBC asserts, AT&T's orders –

which had been submitted under LSOG 4.02 – were rejected because they included PIC/LPIC information without requesting a change. *See* Cottrell/Lawson Reply Aff. ¶ 24.

36. SBC’s explanation of the root cause of this problem differs from its previous statements to AT&T. SBC advised AT&T that it had been correcting its business rules relating to the PIC and LPIC fields in order to satisfy certain Observations issued by BearingPoint in the third-party OSS test. *See* DeYoung/Willard Opening Decl. ¶ 62; DeYoung/Willard Reply Decl., Att. 2.

37. SBC admits that “approximately 15,000 LSRs were impacted” by this problem, but that “all of these orders were sent by AT&T by Tuesday, December 3, 2002, and appropriately processed.” Cottrell/Lawson Reply Aff. ¶ 25. Contrary to SBC’s assertion, however, the orders were not “appropriately processed” by December 3. As we have previously testified, AT&T received acknowledgments (“997s”) from SBC for most of the orders, but initially received *no* firm order confirmations or rejection notices for *any* of them. DeYoung/Willard Opening Decl. ¶ 63.¹⁸ AT&T was advised by SBC that these notices were not sent because SBC had unknowingly changed the field delimiters on AT&T’s LSOG 4 trading partner ID. *Id.* ¶¶ 63, 65.¹⁹

38. SBC asserts that the field delimiter problem (which SBC describes as two problems, rather than one) occurred on December 4 and affected only 125 orders.

¹⁸ SBC itself acknowledges that it could not process FOCs and other status notices on at least some of AT&T’s orders due to its “inadvertent” change of the delimiters that SBC sent back to AT&T for default values. Cottrell/Lawson Reply Aff. ¶ 27.

¹⁹ SBC’s assertion that the orders were “appropriately processed” on December 3 is also contradicted by its own admission (discussed below) that it “inadvertently” made errors on December 4 that had adverse impacts on at least some of AT&T’s orders.

Cottrell/Lawson Reply Decl. ¶ 26. Again, SBC's claim that there were two problems, rather than one, is inconsistent with its previous statements to AT&T. More importantly, however, SBC's description of the timing and effect of this problem is incorrect. SBC previously advised AT&T that the field delimiter problem occurred on December 2 – not on December 4 – and had been the cause of SBC's failure to send FOCs or rejection notices on the 15,000 supplemental orders that AT&T had sent by December 3. DeYoung/Willard Opening Decl. ¶ 63.

39. Remarkably, despite its admission that it committed *three different* “*inadvertent changes*” that had adverse impacts on AT&T's 15,000 orders, SBC asserts that the adverse affects of its delimiter change were “exacerbated by the fact that AT&T had chosen not to program to industry specifications.” Cottrell/Lawson Aff. ¶ 28. SBC's attempt to foist blame on AT&T is a *post hoc* rationalization. AT&T's 15,000 orders would not have been rejected in the first place if SBC had implemented its changes in a competent manner, and had given advance notice of these systems changes in compliance with the CMP.

40. In any event, SBC's suggestion that AT&T exacerbated the problem by failing to follow industry standards is a red herring. Use of the specific X12 convention for specifying delimiters is optional, not required, under industry standards. Furthermore, SBC admits that the use of the X12 convention would have affected only the *supplemental* orders that AT&T submitted. *Id.* ¶ 28 n.22. It would not have prevented the adverse impacts that AT&T's 15,000 original orders, and the first 125 of the supplemental orders, experienced. *Id.*

41. SBC also asserts that “AT&T[’s] complaint that the re-flow [of the supplemental orders] was not completed until December 6 lies entirely on its side of the interface where it apparently was unable to process the batch transfers it requested as quickly as it

anticipated.” Cottrell/Lawson Reply Aff. ¶ 27 n.23. That is untrue. Contrary to SBC’s assertion, AT&T did not request that the 15,000 supplemental orders be re-flowed in batches. *Id.* SBC insisted that AT&T limit its order submissions to 2,200 orders per hour, even though AT&T wished to submit far higher volumes. DeYoung/Willard Opening Decl. ¶ 63. AT&T’s desire to submit higher volumes were in accordance with SBC’s policy, as documented in its (OSS Interconnection Procedures.²⁰ AT&T did make a request for higher volumes pursuant to these procedures, but SBC denied AT&T’s request.

42. **The “G408” Rejections.** Beginning in September 2002, SBC’s OSS erroneously rejected approximately 15,000 of AT&T’s orders – and approximately 800 supplemental orders that AT&T submitted following rejection of the original orders – with a “G408” error code (Invalid Trailing Data for Certain Features). When AT&T subsequently submitted 800 supplemental orders following these rejections, they were again erroneously rejected with the “G408” error code. In both cases, AT&T was required to implement coding changes to its own EDI gateway and re-send the orders as supplemental orders, because SBC was unable or unwilling to resolve the problem in an expeditious, satisfactory manner.

DeYoung/Willard Opening Decl. ¶¶ 82-90.

²⁰ Appendix 3, Item 7 of SBC’s OSS Interconnection Procedures states in part: “If a CLEC experiences problems on either their side or SBC’s side of the EDI interface and, after the problems are cleared, must send a backlog of LSRs to SBC, the CLEC must contact their IS Call Center prior to resuming transmission of LSRs. The CLEC may then send LSRs at their typical hourly volume plus up to 200 additional LSRs in any 10-minute period. This should occur during system processing hours only. Ordering system processing hours can be found listed by region in the footnotes of the Hours of Operation section of the CLEC Handbook. If the CLEC requires a rate that exceeds this volume they should coordinate through their SBC Account Management Team and/or the IS Call Center.”

43. SBC asserts that, contrary to AT&T's understanding, the problem did not result from a change to its EDI coding to eliminate certain spacing requirements for such orders – and AT&T “should never have placed a space in that spot on the order.” Instead, SBC states that the rejections occurred because of a programming change that “was designed to improve flow-through on this order type.” Cottrell/Lawson Reply Aff. ¶ 30.

44. SBC's assertions do not withstand scrutiny. In the first place, SBC's current description of the root cause of the problem is inconsistent with its previous statements to AT&T that the problem resulted from the change in EDI coding requirements to eliminate spacing requirements, and that it was enforcing documented business rules. DeYoung/Willard Opening Decl. ¶¶ 83-84; DeYoung/Willard Reply Decl., Att. 2.

45. Second, SBC's assertion that “AT&T should never have placed a space in that spot in the order” is illogical. Prior to the change, AT&T's orders were *not* rejected when it submitted orders with a space between the “EVD” and the ring count variable. SBC offers no reason why a programming change “designed to improve flow-through” should have caused an order to be rejected for leaving a space in a field used to request addition of a feature known as Call Forward Busy/No Answer Number and Ring Count.

46. More fundamentally, SBC's current explanation makes clear that SBC *intended* to implement that programming change that led to the rejections. SBC does not dispute that it made this change – which was clearly a systems change – without providing advance notice to the CLECs. This was clearly a violation of the CMP.²¹

²¹ In its Modified Compliance Plan, SBC describes the change that it led to the “G408” error rejections as either “creating an edit to enforce an existing rule,” or “tightening an edit of an existing business rule.” Modified Compliance Plan, Att. F at 3. However, as we have previously

47. SBC also mischaracterizes the problems that AT&T encountered with SBC's documentation when AT&T attempted to implement coding changes of its own in order to resolve the order rejection problem quickly, rather than await action by SBC. *See* DeYoung/Willard Opening Decl. ¶¶ 85-86. SBC asserts that AT&T's difficulties occurred not because its documentation was deficient, but because SBC "inadvertently referred" AT&T to the LSOG 5 format." Cottrell/Lawson Reply Aff. ¶ 31.

48. SBC's account is incomplete. It is true that, when AT&T sought information for the correct format for the order type involved, SBC incorrectly referred AT&T to the LSOG 5 format – and later referred AT&T to the correct format only after AT&T found that SBC's representation had been incorrect. However, even when that problem was straightened out, AT&T was unable to determine whether its coding was correct, because the two sets of SBC's business rules for populating feature details, which appear in the USOC Search Tool and the 13-State Data Validation File on SBC's website, were inconsistent. DeYoung/Willard Opening Decl. ¶ 86. Only after AT&T escalated the issue to SBC's Vice President was AT&T finally able to obtain clarification. *Id.* In early November 2002, SBC – obviously recognizing the confusion that its conflicting documents had caused – issued an Accessible Letter that (belatedly) advised CLECs that they should use the USOC Search Tool only if they submit LSRs under LSOG versions 5.01 and above.²²

49. **The Erroneous "H325" Rejections.** In November 2002, AT&T received rejection notices for approximately 1,000 of its orders with error code H325 (which signifies that

stated, either type of change is within the scope of the CMP.

²² *See* Accessible Letter No. CLECALLSO2-138, dated November 8, 2002 (attached hereto as

the order contained more telephone numbers than the applicable Customer Service Record), even though the orders contained no such error. SBC ultimately “un-rejected” these orders, but took nearly a month to do so for nearly half of the orders – thereby delaying their provisioning for weeks. DeYoung/Willard Opening Decl. ¶¶ 77-78.

50. Although it does not deny that the rejections were erroneous, SBC asserts that the incident did not constitute a violation of the CMP, because it was caused after one SBC back-end system was removed for routine maintenance and “was not operating as expected” when it was brought back up on the following morning. Cottrell/Lawson Reply Aff. ¶ 32; SBC Reply at 18. SBC’s current explanation of the root cause of this problem, however, is totally inconsistent with that which it previously provided to AT&T. At the time the orders were rejected, SBC advised AT&T that its OSS rejected the orders because SBC had improperly applied LSOG 5 edits to LSOG 4 orders. DeYoung/Willard Reply Decl., Att. 2.

51. The credibility of SBC’s current explanation of the root cause of the problem is further undermined by SBC’s failure to issue any notice of the problem at the time to CLECs. SBC issued no such notices at the time of the alleged problem, or thereafter.

52. Furthermore, SBC’s current explanation of the root cause of this error illustrates the inadequacy of the OSS. SBC states that when the system was brought back up – and was not “operating as expected” – its regular systems checks failed to detect any errors. *Id.* No reliable OSS would lack safeguards to ensure that back-end systems removed for maintenance operate “as expected” when they are brought back up.

53. **The Erroneous “B103” Rejections.** In November and December 2002, AT&T received rejection notices for almost 1,900 orders with error code B103 (Invalid Listing Type: Non-Published, Non-Listed). These rejections clearly resulted from SBC’s improper application of LSOG 5 edits to the orders that AT&T was submitting under LSOG 4.02, because the listings types covered by error code by B103 are relevant only in the LSOG 5 version of EDI. AT&T had not been advised that SBC would apply this edit to its orders. As a result of the erroneous rejections, AT&T was required to submit supplemental orders for some of them (because they had been awaiting provisioning for weeks and SBC had been unable to provide an estimated completion date). Despite SBC’s promise that it would “unreject” the remaining majority of the rejected orders, SBC did not “unreject” the last of those orders until 45 days after AT&T first opened a trouble ticket with SBC on this issue. DeYoung/Willard Opening Decl. ¶¶ 79-81.

54. Although it acknowledges that it applied an LSOG 5 edit to LSOG 4 orders in order to “improve flow-through,” and does not deny that it gave no notice of this change to CLECs, SBC nonetheless asserts that “the programming in question was not a violation of the CMP, given that the LSOG 4 business rules were silent on this issue and SBC Midwest did not anticipate a CLEC impact.” Cottrell Aff. ¶ 34. SBC’s reasoning is specious. As SBC admits, the LSOG 4 business rules permit CLECs to submit orders for additional non-published listings – in contrast to SBC’s LSOG 5 business rules, which expressly prohibit CLECs from doing so. *Id.* ¶ 33. Regardless of whether it was intended to “improve flow-through,” the “edit” that SBC implemented for LSOG 4 was a systems change subject to the notice requirements of the CMP – which SBC did not follow.

55. SBC's rationalization that it "did not anticipate a CLEC impact" is also without merit. SBC bases its argument on the assumption that "it simply makes no sense to order – and pay for – additional listings that are non-published," and therefore SBC could not have anticipated that AT&T would submit such orders. *Id.* In reality, however, the submission of orders for additional non-published listings is sometimes necessary. For example, if a household consisting of two parents and their teenage daughter has two lines – one for the parents and one for the daughter – the parents might request that the listings for *both* lines not be published.

56. SBC's suggestion that it was unaware that CLECs would be submitting orders for additional non-published listings under LSOG 4.02 is disingenuous. SBC was well aware *before* the "B103 rejections" began that CLECs could use, and were using, LSOG 4.02 to submit such orders. During October 2002, AT&T and SBC engaged in discussions regarding the difference in the LSOG 4.02 and LSOG 5.0 business rules related to additional listings being non-published. These discussions included SBC subject matter experts on directory listings.

57. On October 9, SBC's Account Manager for Industry Markets acknowledged that "in AIT [Ameritech] I recently found out that Non-pub can apply to additional listings."²³ On the same day, and at the request of SBC's directory listing subject matter experts, AT&T sent SBC a sample file with approximately 860 additional non-published listings that AT&T had *previously* ordered and that were *already* in SBC's Ameritech database.²⁴ In short,

²³ Electronic mail message from Janice Bryan (SWBT) to Walter W. Willard, dated October 9, 2002 (attached hereto as Attachment 4).

²⁴ Electronic mail message from Walter W. Willard to Janice Bryan, dated October 9, 2002 (attached hereto as Attachment 5).

both through its exchange of electronic mail messages and through its discussions with AT&T, SBC was fully aware that its business rules allowed CLECs to order additional non-published listings under LSOG 4.02, and that AT&T was placing orders for such listings. SBC thus cannot plausibly maintain that it was unaware before November 2002 (when the rejections began) that it had no idea that its change would impact CLECs.

58. Rejections Due To Inability of the OSS To Read Hunting Information.

During the week of January 13, 2003, SBC rejected approximately 800 AT&T orders because its OSS were unable to read hunting information. The sudden inability of the OSS to read such information occurred when one of SBC's personnel broke a link between the EDI interface and EDI's "test engine" when attempting to fix some other problem. As a result of these erroneous rejections, provisioning of the orders was delayed beyond their original due dates.

DeYoung/Willard Opening Decl. ¶¶ 104-105.

59. Asserting that its error was "inadvertently" committed in connection with changes made as part of a December 19th maintenance release, SBC suggests that the problem was fixed on January 13, 2003. Cottrell/Lawson Reply Aff. ¶ 35. SBC's "fix," however, did not work, because AT&T continued to experience order rejections even after January 13th. Furthermore, even if SBC's error was "inadvertent," SBC did not promptly advise CLECs of the error after learning of it. SBC admits that it did not open a defect report on the problem until 11 days after the implementation of the maintenance release where the error occurred. *Id.*

60. **Rejections Due to LS6327 and G318 Error Codes.** In December 2002 and early January 2003, SBC returned notices for approximately 395 of AT&T's orders with error messages LS6327 (RS-Feature ExREUC Invalid Value) or G318 (not a Resaleable USOC),

even though these codes were plainly inapplicable to the orders. Although SBC acknowledged the error and fixed the defect, AT&T was required to supplement the orders. DeYoung/Willard Opening Decl. ¶ 106.

61. SBC asserts that the rejections were an “unanticipated programming problem” that occurred while SBC was performing a “programming change” to implement a change request designed to implement a rate change discount for UNE-P, which had been mandated by the MPSC. Cottrell/Lawson Reply Aff. ¶ 36. Given its admission that a “programming change” was involved, SBC’s assertion that there was “no systems change that implicated the CMP” (*id.*) is baffling, because a programming change *is* a systems change.

62. To the extent that SBC is asserting that there was no CMP violation because it believed that the programming change “should not have impacted CLECs” (*id.*), SBC’s explanation simply illustrates its narrow reading of the CMP – and the perils that its reading poses to CLECs. SBC interprets the CMP as allowing it to implement changes of any type in its OSS whenever, in its unilateral judgment, the changes “should not impact CLECs.” As has been demonstrated by past experience, however, SBC *cannot* accurately predict whether a particular change will affect CLECs. DeYoung/Willard Reply Decl. ¶¶ 24-26. The “LS6327/G318 rejections” provide but another example of that inability. SBC simply concluded for itself that, because it was making a programming change intended to implement a rate discount, the change could not possibly affect CLEC orders. In reality, the change caused the OSS to reject orders for reasons that were plainly erroneous. Until SBC abandons its position that it need not follow the CMP as long as it opines that a particular change will not affect the

CLECs – regardless of how arbitrary that opinion may be – CLECs will continue to experience disruptions in their operations and will not enjoy parity of access to the OSS.

63. **Rejections Due To “H332” Errors.** In early January 2003, SBC began rejecting some of AT&T’s orders, citing error code H332 (Missing Value for Field Name/State). As SBC acknowledges, these rejections were improper. Cottrell/Lawson Reply Aff. ¶ 37. Although AT&T opened a trouble ticket with SBC on January 15, AT&T continued to experience order rejections with this error code even after SBC indicated that it fixed the problem. When SBC attempted to implement another “fix” on February 19, the “fix” caused such problems with SBC’s legacy systems that forced SBC to withdraw it. Although it promised to implement a new “fix” by March 7, SBC did not finally implement it until March 9, 2003 – nearly two months after AT&T submitted its trouble report.²⁵

64. Although SBC asserts that there was “no system change in this case that implicated CMP,” it states that the problem occurred because its systems were “improperly rejecting LSRs with a unique account structure” if the STATE field was not populated on the LSR, and the “Billing State” was not populated on the CSI. Cottrell/Lawson Reply Aff. ¶ 37. AT&T, however, only began to experience erroneous order rejections with the H332 error code in January 2003 – which suggests that the problem resulted from some change to SBC’s systems. SBC itself acknowledges that the problem was caused by a “system edit” – which SBC decided to remove after receiving AT&T’s report of the erroneous rejections. *Id.* In any event, SBC’s discussion of the problem illustrates its inability to fix OSS problems effectively. SBC acknowledges that, although it intended to remove the system edit for both LSOG 4 and LSOG 5

²⁵ See DeYoung/Willard Opening Decl. ¶¶ 101-103; DeYoung/Willard Reply Decl. ¶¶ 60-63.

on February 13, it removed the edit only for LSOG 5 on that date while (erroneously) removing the Defect Report for the “LSOG 4 issue” at the same time. *Id.*

65. **The “Working Service in Conflict (“WSIC”) Issue.** As we described in our Opening Declaration, SBC gave CLECs only five weeks notice of a new process for handling “WSIC” issues, which arise when a CLEC requests new service (usually an additional line) at an established customer location that is already being provided with local exchange service. This new process, which involved manual procedures on SBC’s part as well as the part of the CLECs, caused substantial disruptions in the operations of AT&T and other CLECs. *See* DeYoung/Willard Opening Decl. ¶¶ 69-76.

66. In response, SBC asserts that it gave CLECs proper notice of new WSIC process at the CLEC User Forum (“CUF”), because the new process was simply a “process change” subject to the CUF – not a systems change subject to the CMP. SBC Reply at 28-29 n.24; Cottrell/Lawson Reply Aff. ¶¶ 42-50. SBC contends that no changes were required in its systems to implement the new process (and, therefore, the CMP did not apply) because CLECs were simply being required to insert text in the “remarks” block of the LSR after receiving a faxed form from SBC. *Id.* ¶ 45.

67. SBC is wrong for several reasons. First, SBC understates the amount of activity that this change requires on the CLEC’s side of the interface. Under this new process, not only do CLECs have to insert information into the remarks field, but they also have to supplement “FOC’d” orders to provide instructions to SBC if there is working service in conflict. Thus, substantial changes needed to be made in the interface to implement SBC’s new requirement. Moreover, the fact that the inclusion of new material in the remarks block required

no changes on SBC's side of the interface simply shows that SBC does not, and cannot, accurately predict the impact of its actions on CLECs. Finally, none of this work would have been necessary if SBC had implemented in the Ameritech region the industry-standard Working Service on Premises ("WSOP") indicator on the address validation information that is available in the SWBT and Pacific regions.²⁶ When a WSOP indicator is available, the CLEC can determine during an address validation whether the order may involve working facilities.

68. SBC's failure to implement the WSOP indicator in the Ameritech region is a deviation from previously-negotiated and agreed-to business rules, including the Plan of Record ("POR") to which SBC agreed as part of the SBC-Ameritech merger. For example, in LSOG 5.0, which was implemented as part of the POR, the WSOP is supposed to be available as an optional field for use at the CLEC's discretion. Rather than implement the WSOP in the Ameritech region, however, SBC simply implemented its "WSIC" process – which it framed as a "process change" in order to evade the requirements of the CMP.

69. SBC contends that CLECs cannot use the WSOP indicator in the Ameritech region because any WSOP information that is available in Ameritech's back-end systems "cannot be easily retrieved and implemented." Cottrell/Lawson Reply Aff. ¶ 49. That, however, is precisely the point. Ameritech's back-end systems are so woefully behind those of SWBT's and Pacific's that the Ameritech OSS are too unstable and unreliable to support mass-market CLEC entry.

²⁶ See Cottrell/Lawson Reply Aff. ¶ 49 (admitting that the WSIC issue "is not as prevalent in SBC West and Southwest regions" because the WSOP indicator "helps identify these situations").

70. Given the availability of the WSOP indicator in its other regions, SBC's implementation of the "WSIC" process is a denial of nondiscriminatory access to CLECs in the Ameritech region. Rather than enable such CLECs to use the far more efficient WSOP indicator, SBC has subjected them to a laborious, cumbersome process that causes substantial delay and disruptions. Until SBC removes this disparity by making the WSOP indicator fully available throughout its regions, it cannot be found to be providing parity of access to all CLECs in its regions.

71. **The "PIA 8" Problem.** SBC further abused the CMP when it announced at a CLEC User Forum meeting that it would henceforth stop sending CLECs a "PIA 8" notice, which advises a CLEC that it has cancelled a new due date that had previously been established for the customer (because the CLEC had not submitted a supplemental order within 30 days after requesting the new due date). SBC asserted that, in discontinuing the notice, it was not required to follow the CMP because it was simply making a "process change," which is governed by the CUF. *See* DeYoung/Willard Opening Decl. ¶¶ 171-175.

72. In its Reply Comments, SBC again asserts that it did not violate the CMP in ending its transmissions of PIA 8 notices, because it simply "standardized and modified the [Customer Not Ready] process" without making any coding changes to its interface.

Cottrell/Lawson Reply Aff. ¶ 54. Even if SBC's explanation is true, it demonstrates SBC's disregard of the CMP. In order to terminate its provision of a notice such as the PIA 8, SBC would have been expected to implement programming changes to update the Local Service Ordering Rules as part of the requirements process, and then proceed to implement programming changes to remove that notice from the interface. To do so, however, SBC would need to follow

the notice requirements of the CMP – as SBC acknowledges.²⁷ SBC, however, circumvented that requirement by simply announcing that it would no longer send PIA 8 notices and characterizing its decision as a mere “process change,” while indicating that it would not make the necessary coding changes until September (in order to “meet” the CMP requirements). SBC’s conduct is another manifestation of its continuing intent to avoid complying with the CMP wherever possible.

73. SBC’s rationalization of its elimination of the PIA 8 notice demonstrates the risk that CLECs face. Using this same rationalization, SBC could announce a significant change – such as the end of its practice of sending jeopardy notices to CLECs – but without removing the code in the interface to implement the change. Yet, under SBC’s reasoning, the change would not be governed by the requirements of the CMP.

74. **Implementation of LSOG 4 and LSOG 5.** In implementing both LSOG 4 and LSOG 5, SBC circumvented the timelines established by the CMP through its persistent use of the Exception Process to make “update” changes to systems requirements – typically, because the previously-issued (and purportedly “final”) version of the documentation was so inadequate. For example, between August 2001 and August 2002, SBC made literally hundreds of changes, and issued more than 1,000 pages of revisions, to its LSOG 5 documentation. Prior to the end of the Uniform Plan of Record collaborative sessions, SBC made corrections to its LSOG 5 documentation in more than 175 instances. *See* DeYoung/Willard Opening Decl. ¶¶ 41-46.

²⁷ SBC states that when it decides to remove the PIA 8 from the interface, it will do so pursuant to the CMP. Cottrell/Lawson Reply Aff. ¶ 54.

75. The CMP plainly requires that, when SBC issues final release requirements or other documentation subject to the notification deadlines specified in the CMP, that documentation will be final and complete.²⁸ As the thousands of pages of SBC's revisions make clear, however, the originally-issued LSOG 5 documentation was woefully incomplete and highly tentative. In such circumstances, SBC violated the time deadlines set by the CMP. Even if, technically, SBC complied with those deadlines by issuing *some* documentation by the specified timelines, it clearly abused the CMP through its repeated use of the Exception Process to revise the documentation so substantially.

76. SBC's constant need to modify its LSOG 5 documentation also reflects the lack of stability of its OSS. The number and frequency of the documentation corrections shows a lack of quality control, inadequate internal testing, and SBC's failure to dedicate the resources necessary to ensure that the release would be implemented smoothly and efficiently. The documentation problems substantially disrupted the CLECs' attempts to make the modifications necessary to prepare for implementation of the LSOG 5 (and LSOG 4) releases. The constant revisions of the LSOG 5 documentation, for example, required AT&T to make repeated changes in its systems and in its requirements documentation. These changes both hindered AT&T's efforts to prepare for the implementation of LSOG 5 and considerably increased AT&T's costs.

77. In response to our testimony regarding its abuse of the Exception Process in connection with the implementation of LSOG 5, SBC asserts that the Commission reviewed

²⁸ See, e.g., CMP Document § 3.3.5, 3.3.6.1 (specifying that Final Release Requirements will contain, *inter alia*, updated interface requirements (including Local Service Ordering Requirements changes), any known exceptions to industry guidelines, exceptions to transactions sets or data models, industry cross-references, reporting impacts (if any), and a "reference to SBC's CLEC website where the detailed Final Release Requirements are stored").

its implementation of LSOG 5 in the *California 271* proceeding and “found that [SBC’s] change management process provides the documentation and support necessary to provide competitive LECs nondiscriminatory access to [SBC’s] OSS.” Reply Br. at 21 n.18 (quoting *California 271 Order* ¶ 96). SBC’s response is both incorrect and nonresponsive. Nothing in the *California 271 Order*, including the portion of the *Order* that SBC quotes, supports SBC’s contention that the Commission reviewed the implementation of LSOG 5.²⁹

78. **Change In Interface Definition Language.** When SBC loaded on its website the latest version of interface definition language (“IDL”) supporting a “CSI Summary” in the SWBT region, it provided no notice to CLECs that any of the other IDLs on its website had been changed. Instead, SBC represented to AT&T (which had coded its systems according to the IDLs posted on the website) that no other change had occurred. As a result of SBC’s failure to advise CLECs of the change, AT&T could not successfully submit pre-ordering transactions on the CORBA interface, and AT&T was required to update its IDLs for CORBA. DeYoung/Willard Reply Decl. ¶¶ 45-49.

79. SBC’s March 17 *ex parte* accuses AT&T of “distorting the facts” on the IDL issue, and asserts that “the problems experienced by AT&T were due solely to programming issues on its side of the interface.” March 17 *ex parte*, Att. A at 5. Neither assertion is true.

²⁹ In the *California 271 Order*, the Commission simply rejected the argument made by AT&T that the third-party test of Pacific’s OSS was incomplete because it did not include testing of LSOG 5. Although the Commission noted that three CLECs had submitted “over 500” orders using Pacific’s LSOR version 5.01 or 5.02 during the two months preceding its decision, that hardly amounts to a finding that the Commission reviewed SBC’s implementation of LSOR 5. See *California 271 Order* ¶¶ 79-80 & n.255. To the contrary, the Commission simply found that in that short time period there was “no evidence indicating that [CLECs] are experiencing any problems submitting orders with this new software version.” *Id.* ¶ 80.

80. First, SBC's assertion that it made "no changes whatsoever" to the CORBA interface since version 5.02 was implemented is incorrect. SBC made programming changes in CORBA when it updated the IDLs to version 5.02, without notice to the CLECs, sometime after October 18, 2002 (when AT&T downloaded the IDLs from SBC's website). Attachment 6 hereto is a comparison of the contents of the IDL files for version 5.02 and the IDL files for version 5.03. The differences between the IDLs of the two versions are shown in red-lined form. The red-lining in Attachment 6 makes clear that SBC changed the IDLs in version 5.03 in a number of respects.³⁰

81. Second, SBC's attempt to blame the IDL problem on AT&T is flatly wrong. SBC states that a comparison prepared by AT&T between the IDL that AT&T was using in production, and the IDL on the website, showed that the differences between the two IDLs "were entirely attributable to programming errors on AT&T's side of the interface." *Id.* SBC's claim is illogical. To make its comparison, AT&T reviewed the "raw" files downloaded *from SBC's CORBA Website* and, from those files, generated a red-lined document showing the differences in the IDLs of the two versions, which could not have been affected by alleged "programming errors" by AT&T. The service interruptions that AT&T experienced were solely the result of the IDL changes made by SBC – as evidenced in Attachment 6 hereto.

³⁰ Although it is likely that SBC would characterize as minor the changes shown in this red-lined documents, their impact is substantial, for they accounted for the "marshalling errors" that AT&T experienced. *See* DeYoung/Willard Reply Decl. ¶ 48. When SBC creates interface definition language, the CORBA object request broker essentially regards the IDL as a memory map. If the location of a field is moved within that map, or the amount of memory that a field takes up is changed, everything after that point is offset. Thus, if a transaction requires data that falls after a field which is not defined in the same way by the CLEC and SBC on both sides of the interface, the transaction will be adversely affected. That is precisely what happened when SBC changed its IDLs.

82. SBC also asserts that it properly announced the new CSI Summary functionality in version 5.03 pursuant to the CMP. *Id.* SBC's assertion, however, is beside the point. The issue here is not whether SBC gave proper notice of the IDL for the new CSI Summary functionality for the SWBT region; the issue is whether SBC gave advance notice of the *other* changes that it made to the IDLs. Plainly, SBC did not.

83. **The "DACT Rejections."** Although SBC's March 17 *ex parte* letter discusses the IDL issue, SBC's letter fails to discuss the other CMP-related issue that we discussed in our Reply Declaration – the "DACT rejections" that AT&T experienced in February 2003. Specifically, due to an unannounced change in the OSS by SBC, more than 3,000 of AT&T's orders were rejected in the Ameritech region because the Directory Activities ("DACT") field on the LSR had not been completed. Before SBC made its unannounced change, AT&T had successfully submitted orders without completing the DACT field, both in the test environment and in commercial production. DeYoung/Willard Reply Decl. ¶¶ 30-44.

84. At the time of the rejections, SBC acknowledged that the rejections occurred due to a modification of EDI mapping, which SBC made without advising AT&T. *Id.* ¶ 37. Despite the numerous *ex parte* submissions that it has made since we described the DACT rejections in our Reply Declaration, SBC has not even denied in *any* of its submissions that it violated the CMP in making this modification. Indeed, the fact that SBC has not addressed this issue *at all* in its submissions is an implicit recognition that it failed to comply with the CMP.

85. Thus, far from reflecting a "single violation" of the CMP, the incidents that we have described in our previous Declarations show a continuing failure by SBC to provide CLECs with advance notice of systems changes. Both our Opening Declaration and our Reply

Declaration showed that this pattern has continued even after SBC filed its Declaration. Even to the extent that the incidents do not strictly fall within the scope of the CMP, they violate the spirit of the CMP – and indicate the unreliability and instability of the OSS.

86. SBC’s abuse of the CMP continues even today. As described below, SBC recently acknowledged to AT&T it did not transmit tens of thousands of billing completion notices to AT&T in a timely manner. Many of these BCNs were not generated at all due to an OSS defect, while the remainder were withheld by SBC during its billing “reconciliation” process. Because a BCN is mechanically generated and sent as soon as SBC’s billing systems have been updated to reflect the service order, SBC could have caused the withholding of BCNs during the “reconciliation” process only if it intentionally implemented a change to its interfaces. Such changes are plainly subject to the notice requirements of the CMP, because they changed the “flow, or sequence, or interface operation.”³¹

87. In its March 14 *ex parte* submission, SBC contends that by presenting evidence alleging that SBC has failed to comply with the CMP, the CLECs are attempting to “impose new CMP requirements in the context of a section 271 proceeding, when in fact the issues are precisely the type the CMP itself is designed to solve.” March 14 *ex parte*, Att. D, ¶ 3. In support of its position, SBC asserts that the CLECs’ complaints about its failure to provide advance notice before making changes are “relatively new, and have not been handled by the CLECs in accordance with the CMP provisions.” *Id.* ¶ 14.

³¹ See CMP Document § 3.1.1. The scope of the CMP, as stated in the CMP Document, places no limitations on the type of interface changes that are subject to the CMP. *Id.* § 1.0 (stating that CMP is intended to “establish a structural means by which . . . SBC will notify CLECs of changes to be made to the OSS interfaces”). AT&T learned of SBC’s withholding practice only after it began receiving BCNs that had been previously withheld. DeYoung/Willard Reply Decl.

88. SBC's argument borders on the frivolous. As SBC is well aware, the complaints of the CLECs regarding its failure to provide advance notice are not "relatively new." AT&T has experienced numerous disruptions of its service due to changes made to SBC's OSS for more than 18 months. On each occasion when a disruption occurred, AT&T contacted the responsible SBC personnel and complained that the SBC's changes violated the CMP or were otherwise improper. In addition, AT&T has repeatedly raised SBC's violations of the CMP as an issue in the "Round Table" portion of CMP meetings, where CLECs may raise any issues related to the CMP. Although, as SBC states, the effectiveness of the CMP is a "standing agenda item" at CMP meetings (pursuant to the requirements of the CMP), nothing in the CMP prevents CLECs from raising issues of SBC's noncompliance outside of this agenda item, whether within or outside of CMP meetings. And that is precisely what AT&T has done.³²

89. Finally, SBC's focus on the absence of CLEC complaints "that the CMP was not effective" misses the point. There is no serious flaw in the CMP itself that requires revisions in the CMP. The problem lies in SBC's failure to *comply* with the requirements of the CMP. See DeYoung/Willard Reply Decl. ¶ 50.

¶¶ 68-72.

³² See March 24 *ex parte*, Att. D, ¶ 13. The CMP states only that a standing agenda item at regular CMP meetings "will provide an opportunity for SBC and CLECs to assess the effectiveness of the CMP and the need for any revisions." CMP Document, § 8.5.1. That provision simply guarantees that the CLECs will be able to raise this issue in CMP meetings if they choose to do so. It certainly does not preclude CLECs from raising noncompliance issues in direct communications with SBC outside of such meetings.

C. The “Change Management Communications Improvement Plan” In SBC’s “Modified Compliance Plan” Should Be Given No Weight.

90. SBC asserts that the “change management communications improvement plan” in its Compliance Plan “will establish a process for notifying CLECs of any changes to operations support systems that may reasonably be expected to impact them.” SBC further asserts that its “unprecedented” plan “responds directly to the complaints that CLECs have raised and will likely eliminate the kinds of miscommunications that have recently occurred.” SBC Reply at iii.

91. The promises that SBC makes in its Modified Compliance Plan – like the promises that it made in its Draft Compliance Plan – should be given no weight here. Consideration of those promises would violate the Commission’s complete-when-filed rule. Moreover, SBC’s promises of future performance are irrelevant to the issue of its current compliance with Section 271. DeYoung/Willard Reply Decl. ¶ 22.

92. In any case, SBC’s plan remains a series of promises that have not been fully implemented. Only after several months of experience following the full implementation of the plan will the Commission be able to make a meaningful determination of whether the plan has resolved the preexisting problem of SBC’s failure to give advance notice of systems changes.

II. SBC’s PERFORMANCE DEMONSTRATES ITS CONTINUED INABILITY TO PROVIDE AT&T WITH NONDISCRIMINATORY ACCESS TO ITS OSS.

93. Despite the overwhelming evidence in the record to the contrary, SBC continues to maintain that it “offers competing carriers nondiscriminatory access to its OSS.” SBC Reply at 23. Even leaving aside SBC’s failure to comply with the CMP, SBC does not currently provide a stable OSS capable of supporting CLEC entry into the local exchange market

on a large scale. SBC's own Reply Comments make clear that CLECs have experienced frequent pre-order outages, that SBC has failed to provide CLECs with tens of thousands of billing completion notices, that SBC does not maintain reliable and stable systems for providing line loss notifiers, and that SBC does not provision CLEC orders accurately.

A. Pre-Ordering Outages

94. As we previously testified, during the last quarter of 2002 SBC's CORBA pre-ordering interface experienced a dramatic increase in outages that frequently rendered AT&T unable to perform some, or all, pre-ordering functions. After a one-month "lull" in January 2003, CORBA again experienced substantial outages in the Ameritech region in February 2003.³³

95. SBC claims that our testimony regarding CORBA outages should be given no weight because AT&T did not raise this matter as an issue with SBC until mid-December 2002. *See* Cottrell/Lawson Reply Decl. ¶¶ 81, 84. AT&T, however, raised each outage with SBC by creating a trouble ticket on each occasion when an outage occurred.³⁴ And aggregated data prepared in December by AT&T highlighted the fact that the level of outages in the Ameritech region was higher than those in either of the other two SBC territories and in other RBOC territories. *See* DeYoung/Willard Opening Decl., Att. 3.

96. Other evidence confirms that such outages are a serious problem. As SBC admits, WorldCom complained to SBC of outages on the EDI pre-ordering interface between November and January. *Id.* ¶ 85. In fact, WorldCom reported in its reply comments that in February 2003, it experienced six pre-ordering outages in February, with an average outage time

³³ DeYoung/Willard Opening Decl. ¶¶ 52-56; DeYoung/Willard Reply Decl. ¶¶ 56-58.

³⁴ *See also, e.g.*, Affidavit of Sarah DeYoung filed on December 19, 2002, in MPSC Case No. U-12320, ¶¶ 22-24 (discussing the recent marked increase in instability and outages on the CORBA

of nearly 20 minutes.³⁵ SBC acknowledges that, after discussions with WorldCom, it “has put more monitoring devices in place, which will alert analysts earlier and shorten downtimes.” *Id.* ¶¶ 85-86. SBC would never have taken such action if the problem were as illusory as it now suggests.

97. SBC also asserts that AT&T’s claim of repeated outages on CORBA is inconsistent with its reported data for PM 4, which describe downtime of only approximately 5 hours during the last three months of 2002 and 2.29 hours in February 2003. *Id.* ¶ 82; March 17 *ex parte*, Att. A at 4-5. As AT&T has previously described, however, recent findings by BearingPoint cast serious doubt on the reliability of SBC’s PM 4 data. *See* Moore/Connolly/Norris Reply Decl. ¶¶ 32-33.

98. SBC’s reliance on its PM 4 data is also misplaced because the methodology that SBC uses to calculate its performance data under PM 4 is fundamentally flawed. For example, PM 4 measures outages by interface, not by transaction type. As a result, the measure does not capture those instances when only certain pre-ordering queries become unavailable. Moreover, because the reported PM 4 data are an average, they obscure the effect of an outage on particular CLECs. Some outages may affect a small number of CLECs, even though the problem is attributable to flaws in SBC’s OSS. *See* DeYoung/Willard Opening Decl. ¶ 55. Although SBC claims that such situations are captured in PM 4, its determinations of

interface).

³⁵ Reply Comments of WorldCom, Inc., at 15.

interface availability are highly subjective judgments made by its Product Management (Availability Team) organization.³⁶

99. As a result of the flaws in SBC's methodology for calculating PM 4 data, it is hardly surprising that the durations of outages reported by SBC under PM 4 are significantly lower than those that AT&T has actually experienced. AT&T's own data show that it experienced downtime of 13.5 hours on CORBA during the last three months of 2002 – a total more than twice that reported by SBC.³⁷ Similarly, the actual duration of CORBA outages that AT&T experienced in February 2003 was 262 minutes (or approximately 4.4 hours), nearly twice the average of 2.29 hours that SBC claims.

100. Even AT&T's data on total downtime do not fully reflect the adverse effect of outages on AT&T. Large CLECs such as AT&T employ numerous service representatives to take customer orders and submit LSRs to SBC. In a single hour, these representatives perform thousands of pre-ordering transactions. Thus, even if the pre-ordering systems experience "only" 4 or 5 hours of outages in a single month, those outages prevent AT&T from submitting significant volumes of transactions to SBC. As a result, provisioning of a significant number of customer orders will be delayed, or AT&T will lose the business of numerous customers altogether (because the customers are unwilling to wait until access to the OSS has been restored to place their orders). Given the large number of its service

³⁶ See March 17 *ex parte*, Att. A at 7 (admitting that SBC's methodology for calculating downtime "is not an exact science but is a collaborative effort among several SBC entities").

³⁷ See DeYoung/Willard Opening Decl., Att. 3, Table entitled "Backup Outages" (showing that actual total duration of all outages on CORBA in the Ameritech region from October through December 2002 was 811 minutes).

representatives, AT&T also suffers a substantial loss in productivity when these representatives must sit idle because the interface is unavailable.³⁸

B. Line Loss Notifications

101. Characterizing as “exaggerated claims” the evidence of AT&T and other CLECs regarding its performance in providing line loss notifiers (“LLNs”), SBC asserts that such evidence merely involves “isolated incidents, resulting from a human error or a one-time system change.” SBC Reply at 25; Cottrell/Lawson Reply Aff. ¶ 96. The evidence, however, shows otherwise. SBC’s systems for providing LLNs have experienced constant, chronic problems, with resulting damage to the CLECs. Those problems continue even today.

1. SBC’s Attempts To Show That Its LLN Performance Is “Excellent” Is Contrary To the Facts.

102. SBC’s claim that its “recent performance in providing LLNs has been “excellent” is belied by the recent findings of the Michigan PSC and the Department of Justice. *See* SBC Reply at 24. The Michigan PSC recognized that the LLN problems are far from resolved, when it recently ordered SBC to include in its “Compliance Plan” certain notification and reporting requirements intended to improve the LLN process. *See MPSC Report* at 69; *MPSC Compliance Order* at 6. Sharing the Michigan PSC’s concerns, the DOJ found that “SBC

³⁸ Because numerous AT&T representatives must sit idle during any outage, PM 4 does not adequately measure the impact of an outage on AT&T. Such impact can only be accurately measured by calculating the number of impacted user minutes (“IUMS”), which measure the amount of time during which AT&T representatives are unable to access the CORBA interface which they are on-line and attempting to assist end-user customers. IUMs reflect the number of minutes during which a function or interface is available, multiplied by the number of AT&T representatives who were logged onto the system. *See* DeYoung/Willard Opening Decl. ¶ 52. Contrary to SBC’s suggestion, the IUM figures that AT&T has presented in this proceeding do not include “downtime resulting from internal issues on AT&T’s side of the gateway.” *See* Cottrell/Lawson Reply Aff. ¶ 83. The IUMs reported by AT&T are due exclusively to outages on SBC’s side of the interface.

has made progress in this area, but *it has not established a suitable level of performance.*” DOJ Eval. at 10 (emphasis added).

103. Although SBC suggests that its LLN performance is similar to that found adequate in the Commission’s *Georgia/Louisiana 271 Order* and *Pennsylvania 271 Order*, nothing could be further from the truth. See SBC Reply at 25 n.21. In the *Georgia 271 Order*, the Commission found that BellSouth’s LLN performance was adequate because: (1) only *one* CLEC (WorldCom) complained about BellSouth’s performance; and (2) the problem described by WorldCom was “relatively limited in duration and scope,” did not “appear to be indicative of a systemic problem,” and did not appear to be competitively significant.³⁹ Similarly, in the *Pennsylvania 271 Order* the Commission found that, although an isolated “line-loss reporting error did occur in the past,” Verizon had “fixed the problem and provided [CLECs] with corrected files in a timely manner” (*i.e.*, less than two weeks after Verizon discovered the problem).⁴⁰ Furthermore, the data presented by Verizon indicated that “less than one percent” of

³⁹ The Commission found that the disparity between the line loss reports provided to WorldCom via the Network Data Mover and the reports posted on BellSouth’s Web GUI was due to complications that arose when BellSouth attempted to upgrade its OSS software to a single “C” ordering system. The Commission found that BellSouth had corrected this problem (and a new problem resulting from BellSouth’s “fix”) within six weeks after it became aware of the problem. *Georgia/Louisiana 271 Order* ¶ 163. In contrast to the situation in the *Georgia/Louisiana 271* proceeding, SBC’s poor performance is not limited to an isolated incident but has involved many problems, affected many CLECs, and has extended for many months.

⁴⁰ See *Pennsylvania 271 Order* ¶ 52. In the *ex parte* letter that the Commission cited in support of its finding, Verizon explained that its OSS had not transmitted certain LLNs to WorldCom because, after it implemented a software release, its system producing LLNs did not recognize the FID (field identifier code) placed on the order by the Verizon business office when an end-user migrated from a CLEC to Verizon. Verizon stated that it identified and fixed the root cause of the problem within 13 days after the problem came to its attention. See *id.* ¶ 52 n.211; *ex parte* letter from Clint E. Odom (Verizon) to Magalie Roman Salas in CC Docket No. 01-138, dated August 29, 2001, at 2.

the LLNs across its entire “Bell Atlantic South” footprint were inaccurate – and even that figure was probably overstated.⁴¹

104. SBC’s LLN performance is far different from that at issue in the *Georgia/Louisiana 271 Order* and the *Pennsylvania 271 Order*. Unlike the isolated problems in those cases, the problems with SBC’s LLN systems have been chronic and longstanding – and continue even today. In December 2001, for example, the Michigan PSC found SBC’s performance to fall short of the requirements of Section 271, stating: “Failure to provide timely notice of migrations is an egregious and anticompetitive neglect of Ameritech Michigan’s duty. *This problem, including both CLEC-to-CLEC and Winback changes, must be resolved promptly.*”⁴²

105. Five months later, in May 2002, the Illinois Commerce Commission found that “Ameritech has unreasonably impaired the speed, quality, or efficiency of services used by Z-Tel through the provisioning of late and inaccurate” LLNs, and that these actions “have had an adverse effect on the ability of Z-Tel to provide service to its customers.”⁴³ As the Department

⁴¹ See *Pennsylvania 271 Order* ¶ 52. Verizon described the accuracy of its LLN as “very high,” explaining that the percentage of working telephone numbers reported as missing or incorrect on the LLN report averaged less than one percent across the entire former Bell Atlantic footprint for the period of January through June 2001. Verizon asserted that even this error rate was overstated, because approximately one-third of the lines that the CLECs reported as missing actually appeared on the line loss report, and another one-third were otherwise reported erroneously by the CLECs. See *id.*; Joint Reply Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster filed in CC Docket No. 01-138, ¶ 70.

⁴² See Opinion and Order issued December 20, 2001, in Michigan PSC Case No. U-12320, at 6 (emphasis added).

⁴³ Order issued May 8, 2002, in Illinois Commerce Commission CC Docket No. 02-0160, *Z-Tel Communications, Inc. v. Illinois Bell Telephone Company, d/b/a Ameritech Illinois, Verified Complaint and Request for Emergency Relief Pursuant to Sections 13-5114, 13-515, and 13-516 of the Illinois Public Utilities Act*, at 16.

of Justice has noted, although the ICC later lifted its order for emergency relief based on SBC's plan to fix its systems, "the possibility that these problems may recur warrants the Commission's serious attention." DOJ Eval. at 10.

106. The rulings of these State commissions demonstrate that, unlike the LLN problems at issue in the *Georgia 271* and *Pennsylvania 271* orders, the line loss problems in the Ameritech region are not "relatively limited in duration and scope" and have not been corrected. The comments of the CLECs in this proceeding confirm that SBC's LLN systems continue to render unstable, deficient performance.⁴⁴ The record demonstrates that, despite persistent claims by SBC that it had fixed the deficiencies in its systems, "a long list of problems" continued to occur even after SBC implemented "fixes" and "enhancements." Those problems included "missing notifications, notifications lacking conversion dates, notifications omitting the disconnected telephone number, and unreadable notifications."⁴⁵

107. Furthermore, in contrast to the concerns that the DOJ expressed regarding SBC's LLN performance (which was one of the factors that precluded the DOJ from recommending approval of SBC's current application), the DOJ expressed no concerns about BellSouth's LLN performance in the *Georgia/Louisiana 271* proceeding, or Verizon's LLN performance in the *Pennsylvania 271* proceeding.

108. In the face of the evidence of its poor LLN performance, SBC attempts to minimize the significance of the problem by asserting that "the problems raised by CLECs

⁴⁴ See AT&T at 18-19 & DeYoung/Willard Opening Decl. ¶¶ 109-135; WorldCom at 10-11; Z-Tel at 3-5; AT&T Reply at 18-21; WorldCom Reply at 7-8; Z-Tel Reply at 5-7.

⁴⁵ DOJ Eval. at 9 & nn.36-40 (citing comments of AT&T, Z-Tel, and WorldCom). See also AT&T Willard/DeYoung Opening Decl., Att. 8 (describing numerous LLN problems that AT&T encountered even after SBC implemented "fixes").

involve only a small fraction of the total number of LLNs generated every month.”

Cottrell/Lawson Reply Aff. ¶ 96. SBC contends that “Even if everything AT&T, WorldCom, and Z-Tel state in their comments is true, during the [August 2002-January 2003] period, SBC has failed to properly transmit a total of approximately 13,250 LLNs, meaning that only 1.8 percent of the total number of LLNs were incorrect in the past six months.” *See* SBC Reply at 25 (emphasis added). *See also* Cottrell/Lawson Reply Aff. ¶ 96. By themselves, the above-described findings of the Michigan PSC, the Illinois Commerce Commission, and (most recently) the DOJ reject SBC’s suggestion that the LLN problem is of no competitive significance.

109. In any event, SBC’s claim in its Reply Comments that only 13,250 LLNs, or 1.8 percent of the total number of LLNs, were not “properly transmitted” from August through January is highly misleading – and, undoubtedly, substantially understates the volume and percentage of LLNs that have been adversely affected by the deficiencies in its LLN systems. SBC’s figures are based only on specific data provided by three CLECs – AT&T, WorldCom, and Z-Tel – in their comments in this proceeding. SBC Reply at 25 & n.20. SBC thus does not include in its calculations any LLNs not “properly transmitted” to *other* CLECs, even though it makes no claim that AT&T, WorldCom, and Z-Tel are the only CLECs that experienced line loss problems during the six-month period.

110. SBC’s calculation is also incomplete because it includes *only* the specific volumes of “improperly transmitted” LLNs that AT&T, WorldCom, and Z-Tel provided in their opening comments. *Id.* For example, AT&T’s opening comments did not describe the approximately 1,700 LLNs that had been improperly faxed to AT&T from October 10 to February 10, because SBC did not acknowledge this fact to AT&T until after AT&T had filed its

opening comments. With respect to WorldCom and Z-Tel, SBC selectively cites only certain specific data described by these CLECs – even though both CLECs made clear in their comments that they have persistently experienced LLN problems, in volumes well beyond those that SBC cites.⁴⁶

111. SBC's March 20, 2003, *ex parte* submission regarding LLNs demonstrates the highly misleading nature of the 1.8 percent figure that it presents in its Reply Comments. In a footnote buried in its *ex parte*, SBC acknowledges that a "total of *more than 20,000 LLNs* were impacted" by an LLN outage that lasted from August 15 to September 11, 2002.⁴⁷ This total – which is due to only *one* of the LLN problems that occurred during 2002 – is, by itself, 50 percent higher than the 13,250 LLNs that SBC used to calculate its 1.8 percent figure. In short, SBC has used the specific volume figures described by three CLECs to paint a false (and substantially understated) picture of LLN problems.⁴⁸

⁴⁶ For example, although SBC cites WorldCom's testimony that it experienced difficulty interpreting more than 3,000 LLNs in late January and early February 2003, WorldCom stated in its comments that SBC's failure to provide LLNs for "thousands of customers" was "perhaps the biggest OSS problem that WorldCom has faced. . . . SBC has repeatedly said that it fixed the problem with line loss notifications *and the problem has repeatedly reappeared.*" SBC Reply at 25 n.20; WorldCom at 10-11 (emphasis added). Similarly, although SBC cites two LLN "incidents" cited by Z-Tel that involved 274 and 68 LLNs (in August and November 2002, respectively), Z-Tel stated in its comments that SBC "continues to provide, to Z-Tel and other competitors, unreliable line loss reports in Michigan and throughout Ameritech's five-state footprint." Z-Tel at 4. Z-Tel specifically noted that SBC's line loss failures had "resulted in a tremendous number of complaints against Z-Tel in Michigan," including 7,596 double billing customer complains to Z-Tel customer service since January 2001. *Id.*, Walters Decl. ¶ 5. SBC did not factor any of these complaints into its calculations.

⁴⁷ See *Ex parte* letter from Geoffrey M. Klineberg to Marlene H. Doretech regarding line loss notifications, dated March 20, 2003, Attachment at 2 n.4 (emphasis added). See also Cottrell/Lawson Reply Aff. ¶¶ 103-104; DeYoung/Willard Opening Decl. ¶¶ 120-123.

⁴⁸ Between August 15 and September 11, AT&T failed to receive approximately 6,900 LLNs. DeYoung/Willard Opening Decl. ¶ 120. Z-Tel reported in its comments that it had failed to

112. More fundamentally, SBC's calculation is based only on the volumes of missing, late, or incomplete LLNs *of which AT&T, WorldCom, and Z-Tel were aware*. CLECs, however, have no means of independently determining the total number of LLNs that SBC has not transmitted. The receipt of an LLN generally is the first occasion on which the "losing" CLEC learns that one of its customers has migrated to another carrier. Similarly, a CLEC has no means of determining whether an LLN is "late." Under the applicable performance measurement in Michigan (MI 13), the timeliness of an LLN is measured from the time that SBC sends the "winning" CLEC a service order completion notice – which the "losing" CLEC does not receive.

113. In its March 14th *ex parte* submission, SBC included additional data that allegedly support its claim that its "performance in delivering timely and accurate LLNs is strong." March 14 *ex parte*, Att. A, ¶¶ 13-14, 24. As discussed in the Supplemental Declaration of Karen Moore and Timothy Connolly, however, the data that SBC includes – which are simply aggregate data for all CLECs – are entitled to no weight. For example, SBC's data are totally unverifiable, because SBC's *ex parte* fails to provide any back-up data, does not describe the methodology that SBC used to calculate the percentages of "inaccurate, incomplete, or untimely" LLNs, and does not break down its data by individual CLEC. Furthermore, although SBC has acknowledged that its retail operations receive an LLN whenever a retail customer migrates to a CLEC, SBC does not provide the same type of LLN information for the LLNs provided to its retail operations that its *ex parte* provides for "CLEC LLNs" – thereby preventing any comparison to determine whether parity exists.

receive 274 LLNs during the same period. Z-Tel at 3. WorldCom did not describe in its comments the number of LLNs that it did not receive during this period. Clearly, however, the "more than 20,000 LLNs" involved more than these three CLECs.

114. In addition to claiming that its LLN performance is “strong,” SBC rationalizes that it “has promptly resolved each [LLN] incident as it arose.” SBC Reply at 25. SBC is incorrect. For a number of the LLN problems that AT&T has experienced, SBC’s “fix” was ineffective, or SBC was unable to fix the problem in a timely manner. *See, e.g.,* DeYoung/Willard Opening Decl. ¶¶ 114-118. As discussed below, only this month SBC acknowledged another LLN problem that it previously claimed to have fixed.

115. SBC’s own data demonstrate that it often has been slow to resolve LLN problems, resulting in substantial delays in the CLECs’ receipt of LLNs. According to a table in SBC’s March 17 *ex parte*, 27 days passed between the onset of an LLN problem in August 2002 that caused AT&T not to receive LLNs, and SBC’s resolution of the problem. SBC also did not resolve an LLN problem in March 2002 (involving the omission of telephone numbers from AT&T’s LLNs) until 21 days after it began. For three of the other four LLN problems described in its table, SBC took from 6 to 9 days to resolve the problem after it began. March 17 *ex parte*, Att. A at 13.

116. SBC’s inability to resolve LLN problems in a timely manner have resulted in considerable delays in the transmission of LLNs to CLECs. SBC’s March 17 *ex parte* submission states that the delays experienced by CLECs ranged from 6 to 39 days in the case of the August-September 2002 LLN problem, from 1 to 22 days in the case of the March 2002 problem, and from 6 to 15 days in the case of another problem in late March 2002 involving the transmission of AT&T’s LLNs to the wrong location. *Id.* In other words, SBC’s resolution of the problems was so slow that transmission of some LLNs was delayed by as much as 39 days – more than a month.

117. In any event, SBC's alleged promptness in fixing LLN problems as they occur (albeit important to the CLECs) is no substitute for LLN systems that are stable and reliable and give CLECs an opportunity to compete. Plainly, such systems do not currently exist.

118. Because of their instability and unreliability, SBC's LLN systems adversely affect consumers and put CLECs at a competitive disadvantage.⁴⁹ As the Commission and the Michigan PSC have recognized, if a CLEC does not receive a timely and complete LLN, it might erroneously double-bill the customer – with resulting damage to the CLEC's reputation.⁵⁰ When SBC fails to send a LLN at all, or does not send an LLN in a timely manner, the CLEC is required to devote substantial resources to identify and correct the problems, including any double billing that results.

119. SBC's poor line loss performance has inflicted precisely that type of injury on consumers and on CLECs. As previously stated, AT&T has encountered serious problems with SBC's line loss performance almost from the time AT&T entered the residential local exchange market in Michigan in February 2002. AT&T has devoted considerable time and resources to resolve the constant problems with LLNs that arise – regardless of whether the LLNs are “missing” or have been sent in unreadable format. Moreover, even with the preventive

⁴⁹ See *Texas 271 Order* ¶ 193 (“failure to provide loss notification reports may impact customers and impede a competitive carrier's ability to compete”).

⁵⁰ See *Pennsylvania 271 Order* ¶ 52 (“If a carrier does not receive complete, timely and accurate line-loss notifications, a carrier will continue to bill an end-user even though the end-user has discontinued service with that carrier”); *Michigan PSC Report* at 68-69 (double-billing due to SBC's failure to send an LLN can have “serious effects on the reputations of competitive providers”).

mechanisms that it has implemented to prevent double billing of customers who have migrated to other LECs, AT&T still receives numerous complaints of double billing from such customers.⁵¹

120. Apparently recognizing its poor LLN performance in the actual commercial environment, SBC contends that the third-party OSS test conducted by BearingPoint confirms that it “provides CLECs with timely and complete LLNs.” Cottrell/Lawson Reply Aff. ¶ 116. *See also* March 14 *ex parte*, Att. A, ¶¶ 3, 12. The BearingPoint test, however, clearly failed to uncover all of the serious deficiencies in SBC’s LLN performance, because major LLN problems have continued to occur since BearingPoint conducted its testing. In any case, the Bearing Point test was inadequate to measure the performance of SBC’s LLN systems. BearingPoint did not determine the accuracy of LLNs by reviewing the LLNs that were received. Instead, BearingPoint simply reviewed the internal SBC database that is used to generate LLNs to determine whether the information in that database correctly stated the “lost” telephone number, the “losing” CLEC, and the order completion date.⁵² Thus, BearingPoint did not (and

⁵¹ AT&T has installed an early-warning system that enables AT&T to intervene, and end, some double billing situations even when LLNs are missing, late, or unreadable. For example, the early-warning systems alert AT&T when the customer’s usage suddenly falls to zero, or when AT&T receives a complaint of double billing from a customer. Even these systems, however, are unable to detect and prevent all double billing problems.

⁵² *See* Illinois Commerce Commission in ICC Docket No. 01-662, *Investigation Concerning Illinois Bell Telephone Company’s Compliance With Section 271 of the Communications Act of 1996*, transcript of hearing held February 5, 2003, at 2481-2482, 2485-2486 (testimony of Carla Morreale and John Prendergast) (attached hereto as Attachment 11). SBC’s internal database is based on lines that are disconnected. SBC granted BearingPoint special access to the database, since it does not grant such access to CLECs. Thus, together with its failure to review LLNs as actually received, BearingPoint’s special access to the database precluded its test from being a reliable indicator of the accuracy of LLNs.

could not) determine whether – *as received* – the LLNs were incomplete or incorrectly formatted (problems which, as we have described, AT&T frequently encountered in 2002).⁵³

121. BearingPoint’s test for the timeliness of LLNs was similarly inadequate. BearingPoint simply reviewed the timeliness of the LLNs that it received, without examining the actual performance of the LLN systems themselves. This was a critical deficiency, because the LLN systems had already shown themselves to be unstable and unreliable in the actual production environment at the time BearingPoint conducted its test.

122. BearingPoint’s test was also incomplete because it did not determine whether the adequacy or timeliness of an LLN would be affected if the “winning” and “losing” carriers operated on different LSOG versions.⁵⁴ In view of the impediments to competition that SBC’s “same version” policy imposes in other contexts, such as line splitting (*see* Part III, *infra*), BearingPoint’s failure to examine the impact of that policy on LLNs is yet another reason why the results of its LLN test can be given no weight.

123. Moreover, it appears that in determining the timeliness of LLNs, BearingPoint applied the same methodology that SBC uses to compute the timeliness of LLNs

⁵³Because SBC’s LLN systems had been so unstable and reliable, BearingPoint clearly erred in confining its review of LLN accuracy to LLNs received during a single month (June 2002). BearingPoint Final Report at 936. A single month’s data provide no indication of the ability of the LLN systems to provide accurate LLNs consistently over the long term – as is evidenced by the erroneous LLNs that CLECs subsequently experienced in the actual commercial environment (most recently, in March 2003).

⁵⁴ In its October 2002 report on the compliance of SBC’s reported performance measures with its business rules, Ernst & Young found that with respect to MI 13 (timeliness of LLNs), “Line loss notifications are not being reported when the winning CLEC originates the order through one ordering system and the Company sends the loss notification to the losing CLEC through a different ordering system.” Ernst & Young Report on Michigan Bell’s Reported Performance Measures with Business Rules, dated October 18, 2002, Att. A at 10.

under PM MI 13 (Percent Loss Notification Within One Hour of Service Order Completion).⁵⁵

As AT&T has previously shown in this proceeding, the methodology that SBC has used to date for purposes of MI 13 has erroneously excluded LLNs that SBC sends when it “wins back” the customer from a CLEC.

124. Finally, SBC asserts that the “Line Loss Notifier Communications Improvement Plan” that it submitted on February 13, 2003 as part of its Draft Compliance Plan, “responds directly to CLEC concerns” regarding LLNs. Cottrell/Lawson Reply Aff. ¶ 117. SBC’s reliance on this “plan,” however, is misplaced. As we have previously shown, SBC’s plan offered no basis for believing that SBC will improve its performance or develop a consistent, reliable LLN process. The plan offered no proposals for improving SBC’s performance in providing LLNs (which, SBC incorrectly asserts, is already adequate). Instead, SBC limited its plan to improving “communications” with CLECs when LLN problems occur, and in reporting LLN problems to the Michigan PSC. DeYoung/Willard Reply Aff. ¶¶ 88-89.

125. The Modified Compliance Plan that SBC filed on March 13th also fails to address the inadequacies in SBC’s LLN systems. Like the Draft Compliance Plan, the Modified Compliance Plan asserts that SBC’s LLN systems are reliable and discusses only improvements in SBC’s communication and reporting of LLN problems.⁵⁶

126. Moreover, although the Modified Compliance Plan now calls for SBC to issue Accessible Letters in the case of “improperly formatted LLNs,” SBC defines that term only

⁵⁵ As SBC states, in determining the timeliness of LLNs, BearingPoint applied the benchmark used for PM MI 13. Cottrell/Lawson Reply Aff. ¶ 116. Because it used the MI 13 benchmark, BearingPoint presumably used the same methodology as that used by PM 13 to determine the data that it reports for this metric.

⁵⁶ Modified Compliance Plan, Att. D.

to include “LLNs transmitted in a format other than expected (*i.e.*, missing fields). Modified Compliance Plan, Att. D at 2. Because SBC cites “missing fields” as an example, it is questionable whether SBC’s definition of “improperly formatted fields” would include situations – like that encountered by AT&T in December 2002 – when SBC sent LLNs in the wrong LSOG format, thereby making them unreadable.⁵⁷

127. SBC’s LLN systems reflect the significant system defects that permeate its OSS and pose a substantial barrier to market entry. SBC has not resolved these problems, and shows no indication that it intends to do so. Under these circumstances, SBC cannot be found in compliance with its OSS obligations.

2. New Problems With SBC’s LLN Systems Continue To Occur, Confirming the Inadequacy of SBC’s LLN Performance.

128. SBC’s LLN systems have continued to render unstable performance even after the filing of its Application with this Commission. In February 2003, for example, SBC admitted to AT&T that between October 10, 2002, and February 10, 2003, it had sent approximately 1,700 LLNs – including 1,171 LLNs that involved customers in Michigan -- to AT&T Business Services by facsimile, rather than by the LEX GUI interface. This procedure was contrary not only to SBC’s commitment to end the transmission of such LLNs by fax, but also to SBC’s prior representations that it had changed its systems to send the LLNs via the LEX

⁵⁷ See DeYoung/Willard Opening Decl. ¶ 126 (describing SBC’s transmission of LLNs to AT&T in LSOG 4.02 format even after AT&T had migrated to LSOG 5.02). As a “note” to its definition of line loss notification interruptions, SBC states that “Any issues arising from a mix up in LSOR versions will be accounted for within this process, but dependent upon the particular situation, may vary as to which of the above categories this issue fits into.” Modified Compliance Plan, Att. D at 2. Although the phrase “issues arising from a mix up in LSOR versions” may be intended to encompass situations like that which AT&T experienced in December 2002, SBC does not make clear whether this is in fact the case.

GUI, effective October 10, 2002. DeYoung/Willard Reply Decl. ¶¶ 78-82. Even more disturbingly, SBC's failure to send the LLNs by electronic interface to AT&T was not an isolated incident. In its March 14 *ex parte* submission, SBC acknowledges that in December 2002 it erroneously sent more than 1,150 LLNs to another CLEC by fax, rather than by the LEX GUI interface, due to a failure "to update its tables." March 14 *ex parte*, Att. A, ¶ 18 n.9.

129. This month, SBC acknowledged yet *another* problem in its provisioning of LLNs. On March 6, 2003, SBC advised the CLECs by Accessible Letter that as a result of its investigation following a report by a CLEC, SBC "had identified situations *where notifications were sent on lines that CLECs did not lose*."⁵⁸ SBC explained that these errors occurred in cases involving partial migrations where the "winning" CLEC used LSOG version 5 and assumed only the billing telephone number ("BTN") on a multi-line account.⁵⁹ In such cases, SBC sent LLNs not only on the BTN, but also "on the main billing number, when it was not an actual loss."⁶⁰

130. SBC thereafter issued additional Accessible Letters providing additional information about the problem. In an Accessible Letter issued on March 14, SBC stated that the erroneous LLNs were generated as a result of a flaw in its LLN systems which "created an LLN for both the original main TN, which was correct, and the newly created main TN, which was not correct as it was not lost."⁶¹ SBC acknowledged that "The first occurrence of this problem was in May 2002, although it was not observed because of the limited occurrence of the scenario."

⁵⁸ Accessible Letter No. CLECAMSO3-019, dated March 6, 2003 (attached to *ex parte* letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 7, 2003) (emphasis added).

⁵⁹ A partial migration occurs when an end-user transfers only some of its lines to a different LEC.

⁶⁰ Accessible Letter No. CLECAMSO3-019, *supra*.

⁶¹ See Accessible Letter No. CLECAMSO3-021, issued March 14, 2003 (attached hereto as Attachment 7).

SBC further acknowledged that 38 CLECs had received such erroneous LLNs. Although SBC had suggested in its March 6th Accessible Letter that as many as 3,000 LLNs had been sent in error, it asserted in its March 14th Accessible Letter that only 908 LLNs had been sent in error, without offering any explanation for the dramatic difference between the two-figures.⁶² On the same day that it sent its new Accessible Letter, SBC separately advised AT&T that it had sent AT&T a total of 77 LLNs in error as a result of this problem.⁶³ The oldest of these LLNs had a conversion date of May 10, 2002.

131. In an Accessible Letter issued on March 21, SBC stated that the root cause of its generation of erroneous LLNs was “incorrect programming caused by human error. Test cases had also failed to identify the problem and have been enhanced to more thoroughly cover this scenario in the future.”⁶⁴ SBC’s explanation indicates that the “fixes” that SBC implemented last spring, which we describe below, were either not fully implemented or were implemented with defects, and that internal testing failed to identify those defects. Indeed, in a separate electronic mail message to AT&T, SBC stated that the problem was “caused by a coding error in the logic to create an LLN *of which we were not aware prior to March 5, 2003.*”⁶⁵

132. This latest error in SBC’s provisioning of LLNs is particularly disturbing, for three reasons. First, because SBC states that the problem involved the erroneous transmission

⁶² *Id.* SBC has not supplied a list of the 908 erroneous LLNs, or the dates on which the LLNs were issued.

⁶³ Of the 77 erroneous LLNs, 55 were sent to AT&T Consumer Services and 22 were sent to AT&T Business Services.

⁶⁴ Accessible Letter No. CLECAM03-022, issued March 21, 2003 (attached hereto as Attachment 8).

⁶⁵ Electronic mail message from Thomas O. Himm to Walter W. Willard, dated March 19, 2003 (attached hereto as Attachment 9) (emphasis added).

of LLNs on the working telephone number in a multi-line account, this indicates that SBC was disconnecting customers from the CLEC's working telephone number that the CLEC did not actually lose.

133. Second, SBC clearly has no mechanisms in place to ensure that the LLNs which it sends are accurate. SBC acknowledges that it began transmitting such LLNs in May 2002, but that it learned of the problem only in March 2003 – ten months later – and only because of a complaint by a CLEC.

134. Third, and most fundamentally, this latest LLN problem appears to be yet another example of a defect in the OSS which SBC previously claimed to have fixed. In a report filed with the MPSC in January 2002, SBC stated that its cross-functional team had found that, in a partial migration situation where the orders flow through SBC's systems without manual intervention, the LLN issued to the "losing" LEC "may not accurately reflect the number of lines lost."⁶⁶ SBC listed that problem as one of the "LLN issues" in a separate Accessible Letter that it issued following a "Loss Notification Workshop" that it held with CLECs in mid-March 2002.⁶⁷

135. In supplemental reports on LLN issues that it filed with the Michigan PSC on April 1 and May 1, 2002, SBC assured the PSC MPSC that it would implement on May 3, 2002, a systems change that would correct the problems in its OSS regarding the issuance of

⁶⁶ Ameritech Michigan's Supplemental Report on the Line Loss Notification Issue, filed January 29, 2002, in MPSC Case No. U-12320, at 6-7 (Application, Appendix C, Tab 61).

⁶⁷ Accessible Letter No. CLECAM02-123, dated March 29, 2002 (attachment entitled "Issues Matrix"), "Line Loss Notification Issues and Status Update – March 13 and March 14, 2002," at 3 (stating that, in scenario where customer migrated only 3 of its 10 lines from CLEC "A" to CLEC "B," the LLN "would be sent to CLEC A indicating erroneously that all 10 lines were lost"). A copy of the Accessible Letter is included in SBC's Application (Appendix H, Tab 27).

erroneous LLNs in partial migration situations.⁶⁸ SBC implemented that change on May 3, 2002, as scheduled. As SBC subsequently admitted, however, neither that “fix,” nor a “fix” that SBC had implemented on April 24, 2002, fully corrected the partial migration problem.⁶⁹ As a result, SBC announced that it would implement additional systems changes on June 3, 2002.⁷⁰

136. After implementing the new systems changes on June 3, 2002, SBC claimed that this new “fix” had resolved the problem. For example, at a hearing held two weeks after the “fix” was implemented, SBC’s Mr. Cottrell testified:

Q. Now the June 3rd fix that was implemented – again, I think I might get this confused – but you thought you had the partial migration issue kicked and then you found that you didn’t. And then the June 3rd implementation or fix was intended to finally solve that matter?

A. And it appears it was successful.

⁶⁸See SBC Ameritech’s Supplemental Report on the Line Loss Notification Issue, filed April 1, 2002, in MPSC Case No. U-12320, at 2-3 (Application, Appendix C, Tab 69); SBC Ameritech’s Supplemental Report on the Line Loss Notification Issue, filed May 1, 2002, in MPSC Case No. U-12320, at 2 (Application, Appendix C, Tab 76).

⁶⁹ At a hearing before the Illinois Commerce Commission in June 2002, SBC’s OSS witness testified that the two “fixes” were not adequate to correct the problem:

Q. Was the April 24th or May 3rd fixes, were either of those fixes designed to correct the partial migration problem?

A. They were.

Q. But neither of those fixes did so in totality?

A. Not completely.

Transcript of June 19, 2002, hearing before Illinois Commerce Commission in ICC Docket No. 01-0662 (“ICC Hearing Tr.”), at 1072 (testimony of Mark Cottrell).

⁷⁰ In a Supplemental Report that it filed on June 2002, SBC stated that “although it was SBC’s belief that the May 4, 2002 system enhancement would address fully the identified [partial migration] line loss issues, based on the situations encountered, additional system changes were required which will be implemented by June 3, 2002. The process will now be monitored to ensure continued accuracy.” SBC Ameritech’s Supplemental Report on the Line Loss Notification Issue, filed June 3, 2002, in MPSC Case No. U-12320, at 3 (Application, Appendix C, Tab 84).

ICC Hearing Tr. at 1092.

137. Similarly, in a “Final Report” on LLN issues that it filed with the MPSC on July 2, 2002, SBC stated that it was “pleased to report that all known line loss notification issues have either been resolved or controlled, and SBC has implemented on-going management and system controls to detect and address any future recurrence.”⁷¹ With respect to partial migrations, SBC stated:

As discussed in SBC’s June 3, 2002 Report, two situations were encountered with the May 4, 2002 MOR/Tel system change. These situations were corrected with systems changes implemented June 3, 2002. The reflow efforts to correct the two situations affected 27,445 TNs/Circuit Ids. This work was completed by June 5, 2002.

Thus, with the June 3, 2002 changes, *all known system issues with the Line Loss Notification process have been resolved.*⁷²

138. In August 2002, SBC again emphasized that it had corrected all LLN issues involving partial migrations. In response to Z-Tel’s assertion that such problems might still exist, SBC stated (under a heading entitled “Line Loss Reports are Accurate for Partial Migrations”):

Since June 3, SBC’s Analysis Team has continued to analyze all partial migration orders. Particular attention was paid by the Analysis Team to re-examining partial migration orders for the period of July 1 through July 13, 2002. *Every single partial migration order processed by the system enhancements was examined in detail.* In each and every case, the system correctly identified and reported all losing TN, and did not report any TNs that were not actually lost. *In other words, SBC verified a 100% accuracy rate for reporting partial migration orders during this period.*

⁷¹ SBC Ameritech Michigan’s Final Report on the Line Loss Notification Issue, filed July 2, 2002, at 1 (Application, Appendix C, Tab 87).

⁷² *Id.* at 3 (emphasis added; footnote omitted).

*SBC considers this issue resolved.*⁷³

139. SBC's recent acknowledgment of its transmission of hundreds of erroneous LLNs in partial migration situations clearly shows that its previous "fix" did not correct the problem that it claimed to have corrected in June 2002. It is equally clear that SBC is unable to identify the root cause of major LLN problems. Had SBC done so in the case of the partial migration issue, it would have recognized that its claimed "fix" was inadequate. In view of recurring problems such as these, the Commission can have no confidence that SBC has truly resolved the flaws in its LLN systems. Far from being ancient history, major LLN problems are a stark reality today.

C. Provisioning Accuracy

140. As we previously demonstrated, SBC commits an unreasonably high rate of errors in provisioning CLEC orders. DeYoung/Willard Reply Decl. ¶¶ 73-76. For example, we showed that 9.3 percent of the AT&T trouble tickets in Michigan which SBC included in its reported data for September and October 2002 under Performance Measurement 35 (Percent of Trouble Reports Closed Within 30 Days) were closed with code 0525 – which is the trouble code that SBC uses to signify provisioning errors made by SBC in connection with flow-through orders. *Id.* ¶ 75.

141. After we submitted our Reply Declaration, SBC revised its Compliance Plan for CSI Accuracy to emphasize that "a failure in the CSR update process does not imply a failure in provisioning processes or systems. While some failures in the CSI accuracy test

⁷³ SBC Ameritech Michigan's Reply To Z-Tel Communications Inc.'s Response To Final Report on the Line Loss Notification Issue, filed August 1, 2002, in Michigan PSC Case No. U-12320, at 7 (Application, Appendix C, Tab 94) (emphasis added).

resulted in switch features not being updated according to the LSR, the failures were due to manual order process failures, not provisioning process failures.”⁷⁴ SBC, however, is simply construing its errors not to be provisioning failures if they result from manual order process failure. Such an interpretation is illogical. If the customer did not receive the services and features that it ordered, SBC has committed a provisioning error, regardless of whether the root cause of the error lay in SBC’s manual processes or in its automated systems.

D. Other Continuing Problems in SBC’s OSS

142. SBC’s OSS performance is deficient in numerous other areas. For example, despite its attempts to minimize the problem in its Reply Comments, SBC fails to provide CLECs with adequate and timely billing completion notices. Furthermore, as SBC has effectively admitted in a recent *ex parte* submission, SBC failed to provide AT&T with proper information regarding the procedures for submitting requests for conversions for special access to UNEs – resulting in the rejection of AT&T’s conversion orders.

143. **Billing Completion Notices.** As we have previously described, SBC failed to generate many thousands of billing completion notices (“BCNs”) for AT&T during January 2003, due to a defect in its OSS.⁷⁵ SBC waited for nearly two months after it learned that this defect existed before notifying the CLECs of the existence of the problem (and of the “correction” that SBC had already made). SBC did not begin to transmit the missing BCNs to AT&T until February 3, 2003, and only because AT&T requested that SBC do so.⁷⁶

⁷⁴ Modified Compliance Plan, Att. A at 2.

⁷⁵ In its Reply Comments, SBC refers to BCNs as Post To Bill (“PTB”) notifications. *See* Cottrell/Lawson Reply Aff., fn. 53.

⁷⁶ DeYoung/Willard Opening Decl. ¶¶ 91-100. Even though it admits that it discovered on December 5 “that some PTB notifications were not being sent,” SBC nonetheless asserts that it

144. As AT&T discussed in its recent *ex parte* submission regarding BCNs, SBC's discussion of this problem in its Reply Comments only confirms its cavalier attitude towards BCNs. SBC's indifference is further confirmed by its recent admission to AT&T that it withheld nearly 10,000 BCNs from AT&T during its billing "reconciliation" process, and as AT&T has shown, total volumes of BCNs withheld as a result of the "reconciliation" is yet thousands higher.⁷⁷

145. SBC's failure to send BCNs directly and adversely affects AT&T's ability to compete with SBC. Delays in receipt of a BCN prevent AT&T from promptly responding to requests from new customers for changes in the features associated with their AT&T-provided local service. The delays also pose a substantial risk that SBC will erroneously bill a CLEC's customer for the period after the Service Order Completion ("SOC") notice has been issued and before the original order from the new customer is posted-to-bill. AT&T BCN *ex parte* at 2-3.

146. AT&T cannot simply rely on the issuance of a SOC as confirmation that the original order has been posted to the billing systems. AT&T's experience has been that for many orders SBC's Ameritech systems cause substantial posting delays, as when an order falls out after provisioning with "3E" error status. *Id.* at 6. Two examples illustrate this point, as well as the adverse effects that such delays have on AT&T and its customers.

"behaved prudently and responsibly" in waiting until January 29, 2003, to advise the CLECs of the problem. *See* SBC Reply at 22. SBC's argument is specious. Even if (as SBC asserts) the issue was "very complex" and SBC required more than a month to determine the root cause and scope of the problem, those facts do not justify SBC's decision to wait 55 days to advise the CLECs that – for whatever reason – its OSS were not sending large volumes of BCNs.

⁷⁷ *See ex parte* letter from Richard E. Young to Marlene H. Dortch, dated March 19, 2003 ("AT&T BCN *ex parte*"), at 2.

147. Assume, for example, that AT&T submits an LSR to migrate a customer from SBC to AT&T's UNE-P service. The service order for that LSR completes, and a SOC is issued. Assume, however, that due to errors in SBC's back-end systems, the service order falls out for manual processing with a "3E" error – and the CSI therefore cannot be updated. While the first (conversion) order is thus still "in flight," the customer calls AT&T back to add a feature such as call waiting. If AT&T did not stack the new order, but instead allowed the new order to go through after the SOC on the original order was received, AT&T would receive a rejection notice on the new order because the end-user's account would still be listed as belonging to SBC's retail operations – due to the fact that the CSI had not yet been updated.

148. Another scenario further confirms the adverse impact on subsequent orders when a previous order on the same account has a "3E" error. Assume that an existing AT&T customer requests that AT&T provide voice mail, and specifies a ring count (the number of ring cycles to occur before the call is forwarded to the voice mail platform number) of 3 rings. AT&T submits an LSR for this service, the order is provisioned, and AT&T receives a SOC. Within one or two days after AT&T receives the SOC, the customer (having had some experience with the new service) calls AT&T back to change the ring cycle to 5 rings. Unbeknownst to AT&T, the service orders associated with the original LSR have dropped out for manual processing due to "3E" errors, and the CSI has not been updated to show that the call forward busy/no answer with a ring cycle count of 3 is on the customer's account. In such circumstances, AT&T's order to change the ring cycle will be rejected because the CSI does not reflect the feature call forward busy/no answer. Such rejections, and the resulting provisioning

delays, are discriminatory, since there is no evidence that SBC's retail customers face comparable delays. *Id.* at 7.

149. **SBC's Failure To Provide Information Regarding the Procedures For Submitting LSRs Under LSOG 4.02 For Conversions From Special Access To UNEs.** In our Reply Declaration, we described – as one of the ways in which SBC denies nondiscriminatory access to ordering and provisioning functions – SBC's rejections of AT&T's LSRs for conversions from special access to UNEs. The rejections occurred despite SBC's previous representation to AT&T that CLECs could submit LSRs for such conversions. Only after the rejections occurred (on February 21, 2003) did SBC advise AT&T that its systems did not permit the submission of LSRs for such conversions under normal ordering procedures, and that SBC had developed a "workaround" which would enable AT&T to submit such LSRs. *See* DeYoung/Willard Reply Decl. ¶¶ 64-66.

150. SBC's discussion of this issue in its recent *ex parte* submission only confirms our testimony. March 17 *ex parte*, Att. A at 8-9. SBC acknowledges that its systems will reject LSRs requesting such conversions if they are submitted under normal ordering procedures, and that it did not post instructions for its "workaround" until February 25 – four days after AT&T's LSRs were rejected. *Id.* SBC's failure to provide the necessary ordering information, and the resulting rejections of AT&T's LSRs, is but one more illustration of its failure to provide CLECs with the nondiscriminatory access to OSS functions without which CLECs lack a meaningful opportunity to compete.

III. SBC’S “SAME-VERSION” REQUIREMENT, AND THE LIMITATIONS THAT SBC PLACES ON THE USE OF ITS TEST ENVIRONMENT, REMAIN A SUBSTANTIAL IMPEDIMENT TO EFFECTIVE COMPETITION.

151. SBC’s current versioning policy, and its current limitations on its test environment, have served to impede, rather than promote, effective competition. SBC characterizes AT&T’s criticism of its “same-version” policy as “difficult to understand” and “preposterous.” SBC Reply at 35-36. With respect to its test environment, SBC accuses AT&T of simply wishing to perform “duplicative,” “repetitious,” and “unnecessary” testing. *Id.* at 20-21. SBC’s baseless attacks on AT&T, however, only highlight the inability of SBC to defend its current policies, which – by themselves – deny CLECs a meaningful opportunity to compete.

A. Versioning

152. As we previously demonstrated, SBC’s “same-version” policy requires that, once an order originating from a particular Operating Company Number (“OCN”) is sent in a given version of EDI (in terms of version and dot release), all subsequent orders from that OCN must be sent in the same version. As a result, the voice and data CLEC in a line splitting arrangement must be on the same version of EDI in order for the data CLEC to submit line splitting orders using the voice carrier’s OCN. If the carriers use different versions, the data carrier’s order will be rejected. Because it is unrealistic to expect that AT&T and its line splitting partner will use the same version at all times, SBC’s “same-version” policy substantially inhibits AT&T’s ability to enter into line splitting arrangements, or other types of arrangements, with other CLECs. *See DeYoung/Willard Opening Decl.* ¶¶ 136-157.

153. SBC asserts that it is “outrageous” and “preposterous” for AT&T to describe SBC’s versioning policy as a barrier to competition, because AT&T and other CLECs

“requested the versioning policy that is now in place.”⁷⁸ SBC’s argument is highly misleading. Although AT&T and other CLECs have consistently requested SBC to implement an adequate versioning policy, AT&T did not request versioning at the OCN level, as SBC suggests. Furthermore, SBC has presented no evidence that the discussions between the parties regarding versioning involved the issue of whether such versioning would be “driven” by OCN values. The issue is not even addressed in the versioning provisions of the CMP document negotiated between SBC and the CLECs.⁷⁹ Moreover, although we understand that SBC has asserted that the issue of versioning based on trading partner IDs was discussed at a meeting on versioning last fall between SBC and the CLECs, SBC made clear that this was not an option under consideration.⁸⁰

154. SBC also emphasizes that during the CLEC collaborative, “CLECs never expressed any need to vary that version of LSRs by PON,” and that “it was never contemplated” that SBC should build versioning “down to the PON level.” Cottrell/Lawson Reply Aff. ¶ 63. It is true that AT&T has not requested versioning at the PON level – and does not do so now. That is because, contrary to SBC’s assertion, implementation of versioning at the PON level is not “the type of versioning flexibility that AT&T now seeks.” SBC Reply at 36. AT&T prefers that SBC require consistency in the use of EDI versions only at the trading partner ID level – which is the practice used by other RBOCs. DeYoung/Willard Opening Decl. ¶ 139.

⁷⁸See SBC Reply at 35-36; Cottrell/Lawson Reply Aff. ¶¶ 58-59.

⁷⁹See CMP Document § 3.4.

⁸⁰Although one of SBC’s Accessible Letters states that trading partner ID versioning was one of the topics “captured” by SBC at the meeting, SBC’s response to the CLECs made clear that this issue was not “on the table” as a topic for consideration. See Accessible Letter No. CLECALLS 02-111, dated September 19, 2002, Attachment at 1-4 (attached hereto as Attachment 10).

155. Even leaving these facts aside, SBC's remaining defenses of its "same-versioning policy" are without merit, as AT&T has demonstrated in its recent *ex parte* submission to the Commission.⁸¹ For example, SBC's professed surprise that AT&T is citing the "same-version policy" as a barrier to competition is contrary to the facts. AT&T Line Splitting *Ex Parte*, De Young/Connolly Supp. Decl. ¶ 30; DeYoung/Willard Reply Decl. ¶¶ 99. Similarly, SBC has offered no valid reason for its refusal to implement versioning at the Trading Partner ID level. AT&T Line Splitting *Ex Parte* at 3-4.

156. SBC also asserts that AT&T "could easily solve this problem for itself without the need for SBC to fundamentally alter its versioning network." *Id.* ¶ 64; *see also* SBC Reply at 36-37. SBC specifically suggests that: (1) Covad could use the LEX interface to submit orders on AT&T's behalf; (2) Covad could use a service bureau provider to submit its orders in the correct EDI format; (3) Covad could modify its systems to submit line splitting orders in the same version as that used by AT&T; and (4) AT&T could submit both line splitting orders. *Id.*

157. As AT&T has previously shown, however, none of SBC's "suggestions" are realistic alternatives. AT&T Line Splitting *Ex Parte* at 4 & DeYoung/Connolly Supp. Decl. ¶¶ 31-32. SBC's suggestion that Covad use a service bureau provider ("SBP") for example, is unreasonable not only because the SBP would face the exact same problem of having to use the same version as AT&T (*id.*), but also because of the cost burdens that it would impose on the SBP and Covad. Such an arrangement would add significant costs to the business arrangement to build an interface from the SBP's and Covad's ordering and provisioning platform. This arrangement would be very expensive and time-consuming for all parties, because it would

⁸¹ See *ex parte* letter from Alan C. Geolot, dated March 19, 2003, at 3-5 & DeYoung/Connolly

involve the very complex task of maintaining multiple interfaces between Covad and its SBP, along with the need to maintain three versions of the interface. *All* of these unnecessary costs – which serve as a barrier to entry – could be avoided if SBC simply offered the same versioning capability that other RBOCs offered.

158. In addition, the use of an SBP provider would deny flexibility to the CLECs in a line splitting arrangement. The SBP derives efficiency through a standard offering that meets the common needs of its customers. Although SBPs may be an efficient and effective means for some CLECs, they serve only a particular sector of the industry. Some companies like AT&T and Covad prefer to maintain greater degrees of control of the OSS interfaces and can do that more efficiently in their current business arrangements. Thus, by using an SBP, Covad could lose the flexibility to implement features that are unique to Covad, because the majority of the SBP's customers do not need that particular capability.

159. Requiring CLECs to use the same version is discriminatory, because it applies only when CLECs make arrangements with other CLECs. For example, if SBC entered into an arrangement with a data LEC to provide combined voice/data service, neither SBC nor its partner would be required to support multiple versions, or even be on the same version.

160. SBC contends that “to provide what AT&T has requested would take between 9 and 12 months, and require a huge expenditure of resources for SBC.” SBC Reply at 37; *see also* Cottrell/Lawson Reply Aff. ¶ 65. SBC, however, has provided no support for this statement, as AT&T has previously demonstrated.⁸²

Supp. Decl. ¶¶ 28-33 (“AT&T Line Splitting *Ex Parte*”).

⁸² AT&T Line Splitting *Ex Parte* at 3-4 and DeYoung/Connolly Supp. Decl. ¶ 32. SBC does not

161. SBC contends that “there is no problem with [its] versioning policy” and the AT&T is simply raising a “business issue” created by itself and its partners. SBC Reply at 37-38. SBC is wrong. As a practical matter, SBC’s versioning policy means that AT&T and other CLECs cannot enter into line splitting arrangements that offer a competitive alternative to SBC’s combined voice/data offerings. In fact, SBC’s “same-version” policy presents an OSS issue that has implications that extend beyond SBC’s obligation to provide appropriate OSS processes for line splitting. The “same-version” policy also inhibits AT&T from entering into arrangements with third parties to assist AT&T’s efforts to move some of its customers from UNE-P to UNE-L configurations. See DeYoung/Willard Opening Decl. ¶ 151. Because SBC itself is under no such constraints when it enters into a similar arrangements with other carriers, its “same-version” policy is clearly incompatible with its obligation to provide nondiscriminatory access to OSS.

B. Test Environment

162. In our previous testimony, we demonstrated that SBC had unreasonably restricted the use of its test environment by imposing a limitation that a CLEC may re-test a

deny that other RBOCs, such as Verizon and BellSouth, track the version by trading partner ID. Instead, SBC rationalizes that other BOCs “may use different techniques,” citing Verizon’s requirement of periodic flash cuts. *See* Cottrell/Lawson Reply Aff. ¶ 67. SBC’s citation of Verizon’s policy, however, is a red herring, because the issue of whether Verizon requires periodic flash cuts is irrelevant to the issues raised by SBC’s policy of basing versioning on OCNs. In any case, SBC’s description of Verizon’s policy is incorrect. Verizon’s CMP document states that when Verizon introduces a new “dot” version, the oldest “dot” version will be decommissioned *either* under a phased cutover (under which the oldest version will remain active for 30 days to receive orders with due dates no later than the implementation of the newest version) *or* under a flash cutover, where the oldest version would be retired immediately upon the implementation of the newest version. Regardless of whether Verizon decides to sunset a particular version under the phased cutover approach or the flash cut approach, it is required to advise CLECs of its decision six months prior to implementation of the new version.

particular test transaction “no more than three times.” SBC’s limitation impairs the ability of CLECs to perform any “multiple retesting” to determine whether changes that they have made in their own systems (for example, in response to changes made by SBC in its OSS) have affected transactions other than those for which the change was made, or any of their own upstream systems.⁸³

163. In response, SBC asserts that the retesting described by AT&T is “duplicative” and “unnecessary.” SBC further states that “to the extent AT&T seeks to test its own back end systems, AT&T should develop, manage and pay for its own internal testing systems – just as SBC has done.” SBC Reply at 21. Neither of these assertions withstands scrutiny.

164. Although SBC describes multiple retesting as “duplicative” and “unnecessary,” its view is not shared by other RBOCs. To the best of AT&T’s knowledge, no other RBOC imposes limitations like those adopted by SBC. *See* DeYoung/Willard Reply Decl. ¶ 101. In any event, SBC’s characterization of multiple retesting as “unnecessary” is based on the premise that “once a transaction is submitted correctly, the test environment will return the exact same response to AT&T every time the transaction is submitted.” SBC Reply at 20. Even if the CLEC receives the same response for a “correctly submitted transaction,” however, the CLEC’s own systems may react differently to a particular test case if, for example, the CLEC has made coding changes in those systems after it previously encountered problems when it submitted the same test case. DeYoung/Willard Opening Decl. ¶ 178.

⁸³ DeYoung/Willard Opening Decl. ¶¶ 177-182; DeYoung/Willard Reply Decl. ¶ 102.

165. Contrary to the impression created by SBC, AT&T does not seek to perform retesting that is “repetitious and duplicative.” SBC Reply at 20. AT&T makes every effort to minimize the number of times that it re-tests on an ILEC’s test environment. Performing unnecessary retesting is against AT&T’s interests, because it would needlessly consume substantial resources and time. AT&T conducts multiple re-testing only when it is necessary to do so. By contrast, SBC’s limitations apply to *all* retesting, even when retesting is clearly necessary.

166. To the extent that AT&T needs to conduct multiple retesting in the Ameritech region, that is due to SBC’s failure to maintain an adequate OSS. Because the OSS in the Ameritech region are so unreliable and unstable, AT&T needs to take particular care to ensure that its systems interact effectively with the OSS when it submits certain transactions. As a result, AT&T must conduct far more multiple retesting in the Ameritech region than in any other RBOC’s region.

167. SBC’s argument that (like SBC) AT&T should develop its own internal testing systems also misses the mark. SBC’s own “completely separate test environment” fully satisfies the testing needs of its retail operations, because that environment includes all of the systems that the retail operations will use – and that will interact with each other in processing retail transactions.

168. By contrast, when a CLEC submits a transaction to SBC, that transaction involves – and requires – the interaction of both the CLEC’s own systems (including its back-end systems) with those of SBC. Because the systems interact, changes that SBC makes in its own systems on its side of the gateway can affect the CLECs’ own systems as well. If a CLEC must

modify its own systems to reflect a change made by SBC in the SBC OSS, the CLEC will only be able to determine whether the modifications are correct – and whether it will be able to submit transactions successfully thereafter – if it can test both its systems and those of SBC at the same time. Moreover, without such interactive testing, CLECs would not be able to test whether changes made by SBC to its test environment while AT&T was in the process of separately testing its back end systems would affect the processing of the tested transaction across the gateway.⁸⁴

169. AT&T does maintain an internal test environment where AT&T tests the interactions between the various upstream AT&T systems. These tests are internal and do not involve SBC's test environment. However, AT&T maintains three separate systems that interact directly with SBC's systems through AT&T's EDI gateway. These systems *must* send, EDI transactions to SBC, and receive EDI transactions from SBC, to validate that the systems are properly functioning. That validation can only be made in the SBC test environment, where the two sets of systems can interact.

170. In short, requiring a CLEC to “maintain a completely separate test environment for its internal testing” (Cottrell/Lawson Reply Aff. ¶ 78) would deny the CLEC the ability to determine whether it can submit transactions successfully to SBC. A purely “internal” test environment limited to the CLEC's own systems would necessarily not include SBC's OSS. Thus, even if the CLEC's back-end systems operated properly in such a test environment, the CLEC would have no assurance that those systems would operate properly *when they interact*

⁸⁴Sound systems test practices would dictate that when SBC introduces any changes to its test environment, the CLECs should restart their test plans. That, however, is not practiced under current circumstances, because of the plethora of software changes (announced and

with SBC's OSS. This would put CLECs at a marked competitive disadvantage, because only SBC has full knowledge of its OSS and any changes to the OSS that it has made.

171. Unlike CLECs' systems, SBC's retail systems are not encumbered by the requirement to transit an interface and all the middleware programs that comprise that CLEC-SBC interface. Thus, SBC's unreasonable restrictions on the use of the test environment disadvantage CLECs relative to SBC retail, since SBC has the exclusive power to determine who has access to the test environment, and under what conditions. SBC's retail operations are under no such restriction, since SBC, unlike the CLECs, is in full control of all systems involved with the delivery of retail services.

172. Requiring CLECs to maintain a separate test environment to test its own systems, while requiring it to use a different test environment to test SBC's OSS, would therefore be contrary to the nondiscrimination requirements of Section 271. SBC's retail operations are not required to follow such a "two-track" system; they are able to use a single test environment to test all of the systems that may be affected by the transactions that they submit. Moreover, SBC's retail operations can use their internal test environment to test transactions and changes as often as necessary. Because CLECs currently lack that same ability, they are being denied parity of access.⁸⁵

unannounced) that SBC makes in its test environment.

⁸⁵SBC also describes its recent proposal to conduct a trial that would permit CLECs to perform unsupervised testing in its 13-State region as long as they submit a "minimum" test plan, including the number of times they intend to test a particular transaction. Cottrell/Lawson Reply Aff. ¶ 80 & Att. H. However, as we described in our Reply Declaration, SBC's proposal regarding its trial – which it "targets" for implementation during the third quarter of 2003 -- lacks sufficient detail to enable CLECs to determine whether the arrangement would give them the ability to conduct all the retesting that they need, even if SBC ultimately makes the trial

CONCLUSION

173. SBC's claim that it is providing nondiscriminatory access to its OSS is – to use SBC's term – “difficult to understand.” *See* SBC Reply at 23, 35. SBC does not deny the numerous problems with the OSS that we have described in our previous Declarations, but seeks to cast them as a limited number of “missteps” – or to blame them on the CLECs. SBC, however, cannot explain away its conduct so easily. The record shows that SBC maintains an OSS that is unstable and unreliable. SBC persistently fails to provide advance notice of OSS changes to the CLECs, to fix problems with the OSS expeditiously, and to provide CLECs with notices such as BCNs and LLNs in a reliable manner. In addition, SBC has used its versioning policies and its test environment as tools to inhibit CLECs from competing effectively in the local exchange market.

174. According to SBC, the record in this proceeding “demonstrates that SBC has done everything that Congress and this Commission have asked of it in implementing the local competition provisions of the 1996 Act and opening the local market in Michigan.” SBC Reply at vii. With respect to SBC's OSS, however, the record shows precisely the opposite. SBC remains well short of satisfying its obligation to provide CLECs with the parity of access to its OSS that the 1996 Act requires.

arrangement a permanent one. *Id.*; DeYoung/Willard Reply Decl. ¶¶ 103-104.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on March 25, 2003

/s/ Sarah DeYoung
Sarah DeYoung

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on March 25, 2003

/s/ Walter W. Willard

Walter W. Willard